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CONTENTS

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CONTENTS FOR MAY, 1915

CONTENTS FOR AUGUST, 1915

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THE
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THE PROGRESS OF PECUNIARY VALUATION

SUMMARY

Pecuniary valuation is a social institution and presumably subject to progress, 1. — The meaning of value; values express organisation; there are numerous classifications, 2. — The nature of the differences among various kinds of value, 3. — All values are, in a sense, commensurable, 5. — Pecuniary value apparently exists to give all kinds of psychical value general validity and exact expression, but seems to do this inadequately, 6. — Conditions that intervene between psychical values and their pecuniary expression, 7. — The factor of class, 8. — Pecuniary value is attained only through an institutional process, 9. — Innovating values lack pecuniary recognition; how they may attain it, 10. — The conception of "progress-values," 14. — Examples of the shortcomings of market valuation at the present time, 15. — Need of organized groups and disciplines, 16. — Instances of current progress in pecuniary valuation, 17. — Progress in the pecuniary valuation of men, 20. — The outlook, 20.

It seems clear, to me at least, that pecuniary valuation is merely one phase of the working of the public mind, in no way apart from other phases, and that the market, taken as a whole, constitutes a social institution in much the same sense as does the church or the state.[1] And, if so, there is no apparent reason why it should not

[1] As I assume the truth of this and other perhaps questionable propositions, it seems desirable to refer to previous articles in which I have discussed some of them at greater length. These are: "Valuation as a Social Process," Psychological Bulletin, vol. ix, p. 441; "The Institutional Character of Pecuniary Valuation," American Journal of Sociology, vol. xviii, p. 543; and "The Sphere of Pecuniary Valuation," American Journal of Sociology, vol. xix, p. 188.

be subject to improvement in a similar way. The narrower view, that the market process is a thing by itself, not to be questioned without a kind of impertinence, has done harm by making men forego endeavor in a field where it is peculiarly requisite. Let us hope that we are at last getting rid of the idea, fostered by the formerly isolated character of economic thought, that this is a province where human nature, conceived after the manner of the eighteenth century as a kind of final cause, works out its inscrutable tendency, and that all we can do is to take the results and make the best of them. The actual system deserves to be treated with respect, like all things that have been proved to work, but we can no longer take seriously those who regard it as fixed, or as having a natural bent towards perfection which enables it to dispense with amendment from without.

To make clear what I mean by progress in pecuniary valuation let me call to mind something of the nature of values in general and of the relation of the various kinds to one another.

Value in the larger sense, as I understand it, means the power of an object to influence behavior, and pertains to all the objects that are of any importance to us. The particular sort of value that leads us to pay certain sums of money for certain objects is, of course, a highly special, tho highly important, species of this genus.[1]

Again, value is an expression of organization. The power of an object to influence a man, or any other form of life, depends upon the established tendencies of that form of life, and, accordingly, wherever we find a system of values there is always a mental or social organization of some kind corresponding to it. Thus in the simpler

[1] In this connection the reader will doubtless recall the discussion regarding "The Concept of Value" by Professors Anderson and Clark in the preceding number of this Journal.

provinces of the mind there are taste-values, touch-values, and smell-values, corresponding to our physiological organization. In a higher sphere we have intellectual and feeling values of many kinds, shown in our differential conduct as regards persons, books, pictures, theories or other influencing objects, and indicating organized habits of thought and sentiment. So in the larger or societal phase of life we see that each organized tendency, the prevailing fashion, the dominant church or state, a school of literature or painting, the general spirit of an epoch, involves a corresponding system of values. You prefer Monet to David, or the German view of the war to the English view, or the present style of dress to hoop-skirts, because you are in one or another of these tendencies.

Where, as in these last cases, the organization is that of a collective social movement or system, we may speak, with obvious propriety, of institutional values. When it is rather that of the human mind itself, in its permanent traits, comparatively independent of institutional changes, we may speak of human-nature values. Thus hoop-skirts had an institutional value, but the love of social approval, which led people to wear them, is a human-nature value, as operative now as ever.[1]

There are many other ways of classifying values; I mention this one because I wish to make use of it later. In general, the kinds are innumerable and their relations intricate: taken as a whole they express the diversity and complex interdependence of life itself.

The question as to what are the differences among the various sorts of value, as moral, aesthetic, legal, religious or economic, is answered, in general, by saying that they express differentiated phases of life which we know

[1] "Human nature" does not mean quite the same here as in individualistic psychology and political economy. It is not only individual but also a comparatively simple and universal phase of society.

by these names. If the phase is definitely organized we can usually ascertain and distinguish the kind of value in question with corresponding definiteness; if not, the values remain somewhat indeterminate, tho not necessarily lacking in power. Thus legal value is a fairly definite thing, because there is a definite institution corresponding to it and declaring it from time to time through courts, legislatures, textbook writers and the like. How you must draw your will to make it legally valid is something a lawyer should be able to tell you with precision. Economic values — if we understand economic to mean pecuniary — are definite within the range of an active market. If religious values mean ecclesiastical, they are easily distinguished; but if they refer to the inclinations of the religious side of human nature, they are not readily ascertained, because there is no definite organization corresponding to them, — or if there is, in the nature of the mind, we know little about it. The values that are most potent over conduct, among which the religious are to be reckoned, are often the least definable. A psychologist like the late William James, however, who wrote a book on the human-nature aspect of religion, may succeed in defining them more closely. Much the same may be said of moral and aesthetic values. In the large human-nature sense, apart from particular ethical conventions or schools of art, they are of the utmost interest and moment, indeed, but do not lend themselves to precise ascertainment.

And all of these distinctions among kinds of value, whether definite or not, are conditioned by the fact that the various kinds are, after all, differentiated phases of a common life. It is natural that they should overlap, that they should be largely aspects rather than separate things. Values are motives; and we all know that the

classification of a man's motives as economic, ethical, or aesthetic, is somewhat formal and arbitrary. The value to me of an engraving I have just bought may be aesthetic, or economic, or perhaps ostentatious, or ethical. (We see in Ruskin's writings how easily an aesthetic value becomes ethical if one takes it seriously.) It may well be all these: my impulse to cherish it is a whole with various aspects.

In much the same way society at large has its various institutions and tendencies, expressing themselves in values, which are more or less distinct but whose operation you cannot wholly separate in a given case. The distinctions among them are in the nature of organic differentiations within a whole.

Observe, next, that there is a sort of commensurability throughout the world of values, multifarious as it is. I mean that in a vague but real way we are accustomed to weigh one kind of value against another and to guide our conduct by the decision. Apart from any definite medium of exchange there is a system of mental barter, as you might call it, in universal operation, by which values are compared definitely enough to make choice possible. You may say that the things that appeal to us are often so different in kind that it is absurd to talk of comparing them; but as a matter of fact we do it none the less. We choose between the satisfaction of meeting a friend at the station and that of having our dinner at the usual time, between spending an hour of aesthetic improvement at the Metropolitan Museum and one of humanitarian expansion at the University Settlement, between gratifying our sense of honor by returning an excess of change and our greed by keeping it, between the social approbation to be won by correct dress and bearing and the physical ease of slouchiness. Almost

any sort of value may come, in practice, to be weighed against almost any other sort.

Indeed this is implied in the very conception of value as that which has weight or worth in guiding behavior. Our behavior is a kind of synthesis of the ideas, or values, that are working in us in face of a given situation, and these may be any mixture that life supplies. The result is that almost any sort of value may find itself mixed up and synthetized with any other sort.

But the human mind, ever developing its instruments, has come to supplement this psychical barter of values by something more precise, communicable and uniform, and so we arrive at pecuniary valuation. This is in some respects analogous to language, serving for organization and growth through more exact communication; and just as language develops a system of words, of means of record (writing, printing and the like), also of schools, and, withal, a literary and learned class to have special charge of the institution, so pecuniary valuation has its money, banks, markets and its business class.

For our present purpose of discussing the general relation of pecuniary to other values, as aesthetic or ethical, it is of no great importance, I should say, to inquire minutely into the various kinds of the latter or their precise relations to one another. The large fact to bear in mind, in this connection, is that we have, on the one hand, a world of psychical values, whose reality is shown in their power to influence conduct, and, on the other, a world of prices, which apparently exists to give all kinds of psychical value general validity and exact expression, but which seems to do this in a partial and inadequate manner.

This, indeed, may be called the root of the whole matter: the fact that pecuniary value, whose functions

of extension, of precision, of motivation, of organization, are so essential and should be so beneficent, appears in practice to ignore or depreciate many kinds of value, and these often the highest, by withholding pecuniary recognition; and, on the other hand, to create or exaggerate values which seem to have little or no human merit to justify such appraisal. Let us, then, inquire why its interpretation of life is so warped.

The answer to this I take to be, in general, that pecuniary valuation is achieved through an institutional process, and, like all things, bears the marks of its genesis. Or, to be a little more specific, we may distinguish two sorts of conditions that intervene, for better or worse, between psychical values and their pecuniary expression. These are, first, internal or technical traits of the economic system, considered as a mechanism for effectuating the values implicit in the actual consumers' demand; and, second, conditions antecedent to the actual demand, determining in part what values shall be represented in it and how they shall be rated. Thus if a sculptor cannot sell his work for a price commensurate with its merit this may be because, owing to lack of information, he has not come into touch with the group of buyers willing to pay such a price; or it may be because, owing to a low state of taste, there *is* no such group of buyers. The distinction is not, in practice, so clear as it seems when thus stated, since the factors in question commonly affect both the character of demand and the way it is carried out: still it is useful, especially as it corresponds to a widespread view as to the limits of economic science, the view, namely, that this is not concerned with anything antecedent to demand.

The former phase of the matter, since it lies within the familiar provinces of economics, I need not say much about. We all know that the processes of

competition and exchange do not correspond to the economic ideal; that they are impaired by immobility, ignorance, monopoly, lack of intelligent organization and other well known defects. How serious these are, on the whole, I need not now inquire, but will pass on to those considerations that go behind pecuniary demand, and indicate why this is itself no trustworthy expression of the human values actually working in the minds of men at a given time.

Most conspicuous among them, perhaps, is the factor of class. The pecuniary market taken as a whole, with its elaborate system of money, credit, bargaining, accounting, forecasting of demand, business administration and so on, involving numerous recondite functions, requires the existence of a technical class, which stands in the same relation to the pecuniary institution as the clergy, politicians, lawyers, doctors, do to other institutions: that is, they have an intimate knowledge and control of the system which enables them to guide its working in partial independence of the rest of society. They do this partly to the end of public service and partly to their own private advantage; all technical classes, in one way or another, exploiting the institutions in their charge for their own aggrandizement. If the clergy have done this, we may assume that other classes will also: indeed it is mostly unconscious and involves no peculiar moral reproach. Much also is done that cannot be called exploitation, which may greatly affect values. The commercially ascendent class has not only most of the tangible power, but the prestige and initiative which, for better or worse, may be even more influential. It sets fashions, perhaps of fine ideals, perhaps of gross dissipations, which permeate society and control the market.

To this we must, of course, add the concentration of actual buying power in the richer class, which is largely the same as the commercial class. The general result is that psychical values, in the course of getting pecuniary expression, pass through and are molded by the minds of people of wealth and business function to an extent not easily overstated.

In close connection with this factor of class we have the existence of certain legal institutions, of which the rights of inheritance and bequest are the most conspicuous, that enormously aid the concentration of pecuniary power, and hence of control over pecuniary values, in a comparatively small group. However defensible these rights may be, all things considered, it is the simple truth that the concentration and continuity they appear to involve seriously discredit, in practice, all theories of economic freedom, and make it necessary to look for the pecuniary recognition of values largely to the good will of the class that has most of the pecuniary power. The view that the administration of the value-system can be in any sense democratic, must rest, under these conditions, upon the belief that democratic ideals will permeate the class in question, in spite of its somewhat oligarchic position.

Let us not forget, however, that class-control, of some kind or degree, lies in the nature of organization, so that its presence in the pecuniary institution is nothing extraordinary. Whether, or in what respects, it is an evil calling for reform, I shall not now consider.

Interwoven with the influence of class is that of the institutional process, of the fact that pecuniary valuation works through an established mechanism, and that it can translate into pecuniary terms only such values as have conformed to the conditions of this mechanism.

In general values can be expressed in the market only as they have become the object of extended recognition in some exchangeable form, and so of regular pecuniary competition. To attain to this they must be felt in the organized opinion of a considerable social group, from which the competitors are to come, and they must also, in a measure, be standardized; that is, the degrees and kinds of value must be defined, so that regular and precise transactions are possible.

Suppose, for example, that a young artist of genius has begun to produce paintings of a high and unique aesthetic worth. In order that these shall have a pecuniary value adequate to their merit, it is not sufficient that here and there an isolated critic or connoisseur shall be strongly impressed by them. Such a situation does not establish a market: there must be discussion, a continuous communicating group must arise, including connoisseurs and wealthy amateurs subject to their influence, the merits of the painter and of his several works must be in a manner conventionalized, so that regular competition is set up and a continuous series of prices established.

A better illustration, for some purposes, would be one in which the social group includes both consumers and producers, the latter stimulated by the appreciation of the group, and at the same time contributing to it by expert leadership, the group as a whole thus advancing both the type of values and its pecuniary standing. This might be the case with the painter and his public, but perhaps expert golf players and the makers of golf clubs would be a better example. I suppose that the sport is socially organized, in the sense just indicated, and that this enables a regular progress in function and in its pecuniary recognition. The makers turn out better and better clubs and get well paid for them.

Almost any branch of applied science will also afford good illustrations, as mechanical engineering, or the manufacture of electrical apparatus.

Something of this kind must take place with all new values seeking pecuniary expression. It is not enough that they are felt by individuals, no matter how many, in a vague and scattered way: they must achieve a kind of system.

To put it otherwise, *the progress of market valuation, as a rule, is a translation into pecuniary terms of values which have already become, in some measure, a social institution.* A new design in dress, no matter how attractive, means nothing on the market until it has become the fashion (or is believed to be in a way to become so) then you can hardly buy anything else; and the principle is of wide application. Inventions and discoveries, however pregnant, will commonly have no market standing except as they have an evident power to contribute to pecuniary values already established. If you write an original treatise in some branch of science, you are lucky if it pays the cost of publication, but if you can prepare a textbook that meets the institutional demand for the same science, you may look for affluence.

Or, to apply the principle to the highest sphere of all, there is a sense in which it is true that the greater a moral value is the less is its pecuniary recognition. That is, if righteous innovation, the moral heroism of the heretics who foreshadow better institutions, is the greatest good, then the greater the good the less the pay. This is not because moral value is essentially non-pecuniary — people will pay for righteousness as readily, perhaps, as for anything else, when they feel it as such, and when it presents itself in negotiable form — but because pecuniary valuation is essentially an

institution, and values which are anti-institutional naturally stand outside of it.

A value that is standard in a powerful institution never fails, I think, of pecuniary recognition. In a certain church a certain type of clergyman can get a good salary: to understand why, you must study the history of the institution.

You may say that this is contrary to the well known fact that a high premium is everywhere put upon initiative and originality. But if you look closer you will find that these qualities, in order to be well paid, must have a demonstrable power to enhance pecuniary values already on the market. An advertising man with a genius for novel and efficacious appeal may demand a great salary, but if he devotes the same genius to radical agitation he may not be allowed to hold any job at all. It is possible, no doubt, to extend considerably the means by which fruitful originality is anticipated and pecuniary recognition prepared for it, as is done, for example, in the endowment of research. The trouble here is to provide any standard of originality which shall not become conventional, and so, in practice, merely perpetuate an institution. A plausible argument could be made that the endowment of research, like fellowships in theological institutions, has in some degree this effect.

We hear a great deal nowadays to the effect that the values of scholars and teachers lack pecuniary appreciation and security in the universities, that boards of trustees do not understand the finer kinds of merit and often use the funds under their control to employ men of business or administrative capacity rather than in evoking or attracting notable men of the type to further which universities exist; also that men are under pressure (indirectly pecuniary) not to teach anything

repugnant to the ascendant commercialism, which the authorities unconsciously represent. In so far as this is true the remedy would seem to be to define and promote the type, to make clear in academic groups and in public opinion what the higher merits are, so that every board will be intelligently eager to secure them; in a word, to foster the institution, in the highest sense, and insist that complete freedom of function shall be a part of it.

So the question of social betterment, in terms of valuation, is largely a question of imparting to the psychical values that we believe to represent betterment such precision and social recognition as shall give them pecuniary standing, and add the inducement of market demand to whatever other forces may be working for their realization. There are, of course, other methods which may be of equal or greater efficacy: but this is one with which no reform can altogether dispense. Thus the movement which is making "social work" a regular profession, with definite requirements of capacity and training, established methods and ideals, and a market price in the way of salaries for those that are competent, is a momentous thing in this field. Not only does it mean pecuniary recognition for the humanitarian value of individuals, but through the institution of a class having such values at heart, all kinds of ideas and measures working in this direction are assured of organized support. The new profession should do for its province what the legal profession (in spite of shortcomings) does for justice, or the medical for health. No doubt something is lost in passing from the heroic innovator to the standard worker on a salary; but it is thus that we get ahead, and that the way is opened for higher kinds of innovation.

If we wish a general term to bring out the antithesis between pecuniary values and those which are high, psychically, but non-pecuniary, we may call the latter *progress-values*. Progress-values, in this somewhat arbitrary sense, would be those which are not yet incorporated into the pecuniary institution, but which, because of their intrinsic worth to human life, deserve to be, and presumably will be. As that takes place they will, of course, cease to be progress-values, because the pecuniary institution will have caught up with them. Such values, otherwise regarded, may be aesthetic, scientific, moral, industrial; may in fact pertain to any field of life which admits of progress. The labor-saving invention which no one, as yet, is willing to pay for has an industrial progress-value, and similarly with the paintings of Corot before the appreciating group has made a market for them.

It will be understood that the more obvious examples of non-pecuniary progress-values are to be expected in those social processes which are remote from or opposed to the economic institution, so that pecuniary recognition is correspondingly impeded. In literature, science and religion they are ever conspicuous (in retrospect, that is), and still more so in what relates to those fundamental social reforms of which the pecuniary system, as a part of the establishment, is the natural enemy.

I need hardly add that progress-values belong, like moral and aesthetic values, among those which have power over the human spirit, but which, for the very reason that they are not the expression of a definite institution, cannot be precisely ascertained.

Probably the more flagrant shortcomings of market valuation at the present time are due in part to a rather

anarchic state of the economic system itself, considered as a mechanism, but also, quite as much, to a weakness and confusion in the higher kinds of organization, of which economic demand should be the expression. The market is largely under the control of two sorts of values, both of which may be called anti-progressive: institutional values of a somewhat outworn and obstructive kind, and human-nature values whose crudity reflects the present lack among us of the finer kinds of culture groups and disciplines. By outworn institutional values I mean, for example, the ideals of pecuniary self-assertion and display which we get, at least in their more extravagant forms, from the regnant commercialism; also the ideals of a superficial refinement, expressing social superiority rather than beauty, which we inherit from a society based on caste. Crude human-nature values may be illustrated by the various forms of sensuality and unedifying amusement for which we spend so lavishly. The road to something higher, in both these regards, seems to lie through the growth of such group disciplines as I have suggested.

We particularly need such disciplines in those fields of production which are most distinctly economic in that they are most completely within the control of the pecuniary institution — production, chiefly, of material goods for the ordinary uses of life. At the present time producers, in great part, are guided by no ideals of group function and service, but merely by the commercial principle of making what they can sell. This attitude is anti-progressive, however matter-of-course it may seem, because the social group in performance of a given function is primarily responsible for its betterment. A shoe manufacturer is no more justified in making the worst shoes he can sell than an artist in painting the worst pictures. Only as we all idealize our

functions can progress-values come in. And the consumers, upon whom the commercial principle throws the whole responsibility, also lack high standards, and organized means of enforcing those they have. The whole situation, so far as it is of this kind, tends to the degradation of quality.

Production has not always lacked ideals, nor does it everywhere lack them at present. They come when the producing group gets a corporate consciousness and a sense of the social worth of its function. The mediaeval guilds developed high traditions and standards of workmanship, and held their members to them. They thought of themselves in terms of service, and not merely as purveyors to a demand. In our time the same is to some extent true of trades and professions in which a sense of workmanship has been developed by tradition and training. Doctors and lawyers are not content to give us what we want in their line, but hold it their duty to teach us what we ought to want, to refuse things that are not for our best good and urge upon us those that are. Artists, teachers, men of letters, do the same. A good carpenter, if you give him the chance, will build a better house than the owner can appreciate: he loves to do it and feels obscurely that it is his part to realize an ideal of sound construction. The same principle ought to hold good throughout society, each functional group forming ideals of its own function and holding its members to them. Consuming and producing groups should coöperate in this matter, each making requirements which the other might overlook. The somewhat anarchical condition that is now common we may hope to be transitory. The general rule is that a stable group has a tendency to create for itself ideals of service in accord with the ruling ideals of society at large.

Perhaps we shall succeed in achieving the higher values only as we embody them in a system of appealing images by the aid of art. We need to *see* society — see it beautiful and inspiring — as a whole and in its special meaning for us, building up the conception of democracy until it stands before us with the grandeur and detail of great architecture. Then we shall have a source of higher values from which the pecuniary channels, as well as others, will be fed.[1]

The societies of the past have done this in their own way; they have had the State and the Church, heroes, dignitaries, traditions and symbols, a visible whole which engaged the devotion of men and served as the spring of ideal values. Montesquieu, with his eyes on France, wrote that honor was the principle of monarchy, which "sets all the parts of the body politic in motion"; the fount of honor being the king, and its awards depending, ideally, on public service, as that was understood at the time. We must do it in a new way, our own democratic way; but it must be done. There must be the ideals, the symbols, the devotion, the detailed and cogent interpretation for every phase of life.

It is not hard to find going on about us examples of the way in which an onward movement, expressing itself in any of the social institutions, may pass thence into the pecuniary system. Consider, for instance, the movement for vocational selection and specialized education in the schools. It is evident that the spirit of our democracy is bent on developing competent leadership and technical efficiency in all phases of its higher life.

[1] Professor A. S. Johnson in a Phi Beta Kappa address has vigorously presented this line of thought. He holds that: "The ultimate need of the new industrialism . . . is . . . artists and poets who shall translate society and social man into terms of values worth serving."

As this idea becomes organized it creates a demand for teachers and specialists of every sort which the growth of society is seen to require, and prices are set upon their services high enough to ensure the supply. If the public mind sees the need of forestry, a supply of trained foresters, sufficiently well paid, is presently at hand. These in turn, acting as leaders, stimulate and guide public opinion, and a growth of organization and of values takes place along the line of vital impulse.

Of the same character is the rise and effectuation of an art spirit, which we are witnessing. The public mind, somewhat weary of a monotonous commercialism, has begun to turn, vaguely but resolutely, towards aesthetic production and enjoyment. There are a hundred manifestations of this, but none more significant than the rise of art-handicraft teaching in the schools. No one can say how far this will go, but there is no apparent reason why it should stop short of restoring that union of life with art which our recent development has so generally destroyed. If so, the effect in creating higher types of commercial value, in commodities and in men, will be beyond estimate. The spirit of art makes men desire to surround themselves with objects upon which the craftsman has impressed a joyous personal feeling, precisely as the lover of literature needs to surround himself with books of which this is true. It is essentially a demand for personal expression, and implies a real, tho perhaps indirect, understanding between the workman and the consumer. In so far, then, as it prevails it evokes a class of handicraftsmen whose work is individual and inspiriting, partly counteracting the deadening effect of wholesale and impersonal methods. Thus there will come to be a growing number of independent and well paid men, many of them dealing directly with the consumer, engaged upon work as delightful as any that life affords.

Wholesale production will doubtless continue, because of its economy, but even as regards this we note that variety and personal interest in the work are coming to have a market value as they are seen to promote contentment and efficiency.

The whole matter of fashion, especially of fashion in dress, might well be discussed from this point of view. Altho it has been the subject of futile satire and protest so long as to seem hopeless, it is not so unless we are prepared to admit that we are incapable of a real self-expression in this part of life. Competent leadership, along with the general growth of aesthetic culture and democratic sentiment, should make this possible.

It is plain, also, that in any plan of reform of values through demand the mind of women must have a great part. In so far as this mind seems at present to fluctuate between conventionalism and anarchy, the cause, perhaps, is that it lacks the guidance and discipline that might come from the better organization of women as a social group. The working of this should be analogous to that of the professional groups I have cited, and should have a like power to raise the quality of the pecuniary values which women control. The critical question here is, will women, under conditions of freedom, develop a group consciousness of their own, with high ideals of each function and power to discipline the less responsible of their sex. It is hard to see how modern civilization can dispense with something of this kind. We seem to have abandoned compulsory discipline, and self-discipline is much needed to take its place — or rather to do what the other could never have done, make women full participants in democratic progress.

As regards a better pecuniary valuation of men, the same principles, hold, in general, as for other kinds of

pecuniary progress. It calls for the development of service values, along with the social organization necessary to appreciate and define these and secure for them pecuniary recognition. No social manipulation can be trusted to make people pay high prices for poor service, nor will good service secure an adequate reward without social structure to back it. The natural process is one of the concomitant development, through a continuing group, of service values and pecuniary appreciation.

Certainly we need a scientific and thorogoing cultivation of personal productive power. This should include the study of potential capacity in children, vocational guidance, practical training and social culture. We require also a practical eugenics, which shall diminish the propagation of degenerate types and perhaps apply more searching tests to immigrants. We need, in short, a comprehensive "scientific management" of mankind, to the end of better personal opportunity and social function in every possible line. But inseparable from this is the whole question of democratic social development through the state and other institutions, every phase of which should tend to improve the general position, and through that the market power, of the unprivileged masses of the people.[1]

To put it otherwise, the institutional factors back of market values vary not only in different occupation groups, but along lines of general class position, and in the case of those classes that are handicapped by an unfavorable economic situation their inequality offers an urgent problem, which the labor movement, in the largest sense, is an endeavor to solve.

I do not anticipate that the struggle of classes over pecuniary distribution will go to any great extremes. It

[1] I trust that no one will suppose that I regard the gradual transformation of values through demand which I have discussed in this paper as the *only* means of economic reform. I do not intend to exclude more authoritative methods, such as taxation or restrictive legislation.

seems more probable that facility of intercourse, democratic education, underlying community of interest, and the large human spirit that is growing upon us, will maintain a working solidarity. Common ideals of some sort will pervade the whole people; and they cannot be ideals dictated by any one class. They must be such as can be made acceptable to an intelligent democracy, and will rule the minds of rich and poor alike; no class will be able to shut them out. They will be violated, but only in the clandestine way that all accepted principles are violated. Whoever has wealth, whoever has power, I am inclined to think that the sway of the public mind will be such as to ensure the use of these, in the main, for what is regarded as the common welfare.

In spite of the rank growth of many abuses, our society is comparatively free from the more stubborn obstacles to democratic betterment. I mean long-settled habits and traditions whose spirit is opposed to such betterment. Our theory, our formal organization, our training, are all favorable to rational democracy. The domination of a commercial class, so far as it exists, is but a mushroom growth, and those who, to their own surprise, find themselves exercising it, have no deep belief in its justice or permanence. It is an economic fact, but not a tradition or a faith. It is but a slight thing compared with the indurated mediaevalism and militarism of Europe. Our people have not only democratic ideals, but a well-grounded faith in their ability to realize them.

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THE SCOPE OF WORKMEN'S COMPENSATION IN THE UNITED STATES

SUMMARY

The ideal not reached in present American laws, 22. — Limitation to accidental injuries, 23. — "Arising out of and in the course of" employment, 29. — "In the course of" employment, 35. — Accident, injury, and disability distinguished, 38. — Faults of employers and employees, 39. — Causation, partial, sole, proximate, 43. — Results in personal injury, 46. — Compensation without disability, 48. — Death, 50. — Non-fatal injuries, disability, 53. — Waiting periods, 54. — Development and test of disability, 59. — Conclusion, 61.

MANY times, for the purpose of sharp contrast with employers' liability, it is said that workmen's compensation laws grant payments for all industrial accidents or injuries. But exactly that never is meant. It is, indeed, the ideal of workmen's compensation to require payments for all disabilities which are fairly due to the employments in which they are incurred and to make industry carry corresponding charges, as industry must carry charges for all injuries to its material capital. And to keep this ideal ever in mind will afford many a minor help to the wise formulation and administration of compensation statutes. But there are plenty of good reasons why the ideal cannot be realized now, or soon.

And certainly American compensation laws are not thus unlimited in scope: they are limited in two general ways. In none of the thirty-three compensation states [1] does the law apply to quite all employments: in one place and another casual labor, farm labor, domestic

[1] The two territories, Alaska and Hawaii, are included; and, for simplicity of expression, all are mentioned as states.

service, employment not for profit, and still other employments are left quite outside the law. And, whatever the employments to which the law may be limited,[1] its scope is narrowed farther by limitations in the causes and results of injuries. It is the prime purpose of this study to examine these narrower limitations, in the causes and results of injuries, as they are found in the present statutes of the American states and territories.[2]

In full conformity with the popular understanding of its purpose and with foreign precedent in the premises, the law in nearly all of the states restricts its benefits to injuries sustained by accidents. In a considerable number of the states the restriction is to be found neither in the sections which directly establish the benefits nor by way of any definition;[3] but in some of these it ap-

[1] The employments covered by American compensation laws are described, as of March, 1915, in "The Field of Workmen's Compensation in the United States" in the American Economic Review for June, 1915 (vol. v, pp. 221–278).

[2] Alaska, c. 71 of 1915. Arizona, c. 14 of 1912, second session. California, (c. 399 of 1911); c. 176 of 1913, amended by cs. 541, 607, and 662 of 1915. Colorado, c. 179 of 1915. Connecticut, c. 138 of 1913, amended by c. 288 of 1915. Hawaii, act 221 of 1915. Illinois, p. 335 of 1913, amended by p. 400 of 1915. Indiana, c. 106 of 1915. Iowa, c. 147 of 1913. Kansas, c. 218 of 1911, amended by c. 216 of 1913. Louisiana, act 20 of 1914. Maine, c. 295 of 1915. Maryland, c. 800 of 1914. Massachusetts, c. 751 of 1911, amended by cs. 172, 571, and 666 of 1912, by cs. 48, 445, 448, 568, 696, 746, 807, and 813 of 1913, by cs. 338, 618, 636, 656, and 708 of 1914, and by cs. 123, 132, 183, 236, 244, and 275 of 1915. Michigan, act 10 of 1912, extra session, amended by acts 50, 79, 156, and 259 of 1913, and by acts 104, 136, 153, 170, 171, and 182 of 1915. Minnesota, c. 467 of 1913, amended by cs. 193 and 209 of 1915. Montana, c. 96 of 1915. Nebraska, c. 198 of 1913. Nevada, (c. 183 of 1911); c. 111 of 1913, amended by c. 190 of 1915. New Hampshire, c. 163 of 1911. New Jersey, c. 95 of 1911, amended by cs. 241 and 368 of 1911, by c. 316 of 1912, by cs. 145, 174, 177, and 301 of 1913, by c. 244 of 1914, and by cs. 59 and 199 of 1915. New York, (c. 816 of 1913); c. 41 of 1914, amended by c. 316 of 1914, and by cs. 167, 168, 615, and 674 of 1915. Ohio, 102 O. L., p. 524, amended by 103 O. L., pp. 72, 95, 396, and 656, by 104 O. L., p. 193, and by 105 O. L., p. 3. Oklahoma, c. 246 of 1915. Oregon, c. 112 of 1913, amended by cs. 76 and 271 of 1915. Pennsylvania, acts 329, 330, 338–343 of 1915. Rhode Island, c. 831 of 1912, amended by cs. 936 and 937 of 1913, and by c. 1268 of 1915. Texas, c. 179 of 1913. Vermont, no. 164 of 1915. Washington, c. 74 of 1911, amended by c. 148 of 1913, and by c. 188 of 1915. West Virginia, c. 10 of 1913, amended by c. 9 of 1915, and by c. 1 of 1915, extraordinary session. Wisconsin, (c. 50 of 1911); c. 599 of 1913, amended by c. 707 of 1913, and by cs. 121, 241, 316, 369, 378, and 462 of 1915. Wyoming, c. 124 of 1915.

[3] California, 12 (a). Connecticut, B, 1. Iowa, 1; 10. Massachusetts, II, 1. Michigan, II, 1. New Hampshire, 3. Ohio, 68; 72. Texas, I, 3. West Virginia, 25; 27. Wyoming, 2; 19.

pears to have been taken for granted, as matter of course, and to be implied fairly in references here and there to accidents or accidental injuries.[1] Perhaps only in California, Connecticut, Massachusetts, Ohio, Texas, and West Virginia [2] is the inclusion of other than accidental injuries indicated clearly by the words of the statutes. And in much the greater number of the states the limitations to injuries by accident are both direct and unambiguous.[3] In the popular mind injury by accident has been likely to imply some visible or tangible instrument or medium and a prompt and evident result, as an open wound, a fracture, a sprain, an unmistakable inner lesion, or the like. And something of this narrow meaning has been incorporated in

[1] This principle of interpretation has been adopted authoritatively for Michigan by the Supreme Court of the state in the case of Adams v. Acme White Lead and Color Works, decided July 25, 1914 (182 Mich.; 148 N. W. 485). The court relied, in part, upon the phrases, "accidental injury" and "industrial accident board," found in the title of the act, and upon a number of references to accidents in the body of the law [I, 5; II, 7; II, 11; II, 12; III, 13]. Like ground for a like interpretation may be found for Iowa, in sections 15 and 16; for New Hampshire, in sections 1, 2, 5, and 6; and for Wyoming, in the title and in section 4. The Michigan court relied also, in part, upon the statutory requirement of reports of accidents. But such requirements are not of conclusive significance. They are measurably apart from the essentials of workmen's compensation and well may be included in a law which covers injuries by accident and other injuries also, as, indeed, they are included in Massachusetts (III, 18) and Ohio (99), where it is beyond doubt that injuries other than accidental ones are covered by the law. Nor is the use of such phrases as "accident board" and "accident fund" more significant. Of this California with her accident fund and Massachusetts with her Industrial Accident Board are proof enough. In fact, the Supreme Judicial Court of Massachusetts has spoken specifically to this point, holding that "the name, 'Industrial Accident Board,' which is the administrative body created by part III, is a mere title and cannot be fairly treated as restrictive of its duties" (William Hurle's Case, 217 Mass. 223; 104 N. E. 336).

[2] In the case of Poccardi v. Public Service Commission, decided Jan. 26, 1915 (84 S. E. 242), the West Virginia Supreme Court of Appeals appeared to imply an "accident or untoward event" as the necessary basis of an award. But this case was under the statute of 1913, which included two significant references to accidents (8; 43). Subsequently the legislature of 1915 changed the most significant of these references from *accident* to *injury* (43). There remains, however, one reference to "the accident" as the cause of permanent disabilities (31).

[3] Alaska, 1. Arizona, 66: 71. Colorado, 8, iii. Hawaii, 1. Illinois, 1. Indiana, 2; 76 (*d*). Kansas, 1. Louisiana, 2. Maine, 11. Maryland, 14; 62, 6. Minnesota, 9. Montana, 6 (*q*). Nebraska, 9; 10. Nevada, 1 (*a*); 25. New Jersey, 7. New York, 10; 3, 7. Oklahoma, art. 1, sec. 3, 7; art. 2, sec. 1. Oregon, 12; 21. Pennsylvania, act 338, sec. 301. Rhode Island, II, 1. Vermont, 4. Washington, 3. Wisconsin, 3. Montana and Washington use the term, "fortuitous event," instead of accident.

statutory definitions in a few of the states.[1] In the most, however, no definition has been attempted; so that the exact meaning of accident and, in so far, the exact scope of the law have been left to be determined through experience under the law.

Fortunately, the laws have been construed liberally, where statutory restrictions have not hindered. The commissions and boards and the trial courts have not been always consistent with one another, or even with themselves;[2] but the higher courts, whose decisions will control, in this as in other relations have interpreted the compensation laws with a wise and consistent liberality.

In the United Kingdom injury by accident has been held to include death, rupture, and other injuries from heavy exertion,[3] even aggravation of an existing rupture,[4] breakdown of a weakened organ by ordinary exertion,[5] apoplexy or cerebral hemorrhage resulting

[1] In Louisiana an accident means "an unexpected or unforeseen event, happening suddenly or violently, with or without human fault, and producing at the time objective symptoms of an injury" (38). Very similar, but still narrower, are the definitions of Minnesota (34) and Nebraska (52). In Oregon the compensations are for accidental injuries "caused by violent or external means" (21). Perhaps also there is something of definition intended in the term, "fortuitous event," as used in Montana (6) and Washington (3). See also the references to wilful acts of third parties, note 4, page 32.

[2] The Michigan Industrial Accident Board has held that "where death or disability results from fright, unaccompanied by any immediate physical injury, no compensation can be had" (Pietternella Visser v. Michigan Cabinet Co., Bulletin, No. 3, p. 24); and the Washington Industrial Insurance Commission has ruled that the appearance of hernia, by itself, is not an accident under the act (Third Annual Report, p. 83). At the other extreme, the New York Workmen's Compensation Commission pronounced accidental the death of a workman who closed a long day of very hard work, went to a saloon, bought a cigar, fell asleep in a chair, and died there of angina pectoris brought on by exhaustion (State Department Reports, 1915, vol. iii, p. 395). The Wisconsin Industrial Commission has held that freezing is not an accident (Angelo Aillo v. Milwaukee Refrigerator Transit and Car Co., Fourth Annual Report, p. 18), and that freezing is an accident (Henry Skougstad v. Star Coal Co., Fourth Annual Report, p. 31).

[3] Timmins v. Leeds Forge Co., 16 T. L. R. 521; 2 W. C. C. 10. Fenton v. Thorley and Co., 5 W. C. C. 1. Doughton v. A. Hickman, 6 B. W. C. C. 77. Hewitt v. Stanley Bros., 6 B. W. C. C. 501.

[4] Fulford v. Northfleet Coal and Ballast Co., 1 B. W. C. C. 222.

[5] Clover, Clayton, and Co. v. Hughes, 3 B. W. C. C. 275.

from exertion,[1] muscular strains,[2] heatstroke in the hold of a vessel,[3] sunstroke from unusual exposure,[4] blindness due to exposure in a very high temperature on the steel deck of a steamer,[5] mental shock at sight of injury to a fellow workman,[6] pneumonia from a bruised side,[7] from the inhalation of gases,[8] and from a wetting in a flooded mine,[9] inflammation of the kidneys from standing in a mill-race,[10] anthrax from handling infected wool,[11] and injury by the intentional act of a third party.[12] The principle of discrimination appears to be that an accident must be assignable to a somewhat definite time or occasion. So lead poisoning is not the result of accident,[13] nor is eczema caused by a continued dipping of the hands in carbon bisulphide.[14]

While there are not yet American decisions showing so broad an interpretation in workmen's compensation cases, our principles of judicial construction and the frequently expressed deference of American judges to the British decisions give the British precedents an undeniable authority in this country. Moreover, in certain directions high American courts already have shown directly their liberal understanding of accidental

[1] M'Innes v. Dunsmuir and Jackson, 1 B. W. C. C. 226. Broforst v. Owners of S. S. "Blomfield," 6 B. W. C. C. 613.

[2] Boardman v. Scott and Whitworth, 4 W. C. C. 1. Purse v. Hayward, 1 B. W. C. C. 216.

[3] Ismay, Imrie, and Co. v. Williamson, 1 B. W. C. C. 232. Maskery v. Lancashire S. S. Co., 7 B. W. C. C. 428.

[4] Morgan v. Owners of S. S. "Zenaida," 2 B. W. C. C. 19.

[5] Davies v. Gillespie, 5 B. W. C. C. 64.

[6] Yates v. South Kirby, Featherstone, and Hemsworth Collieries, 3 B. W. C. C. 418.

[7] Lovelady and others v. Berrie, 2 B. W. C. C. 62.

[8] Kelly v. Auchinlea Coal Co., 4 B. W. C. C. 417.

[9] Alloa Coal Co. v. Drylie, 6 B. W. C. C. 398.

[10] Sheeram v. F. and J. Clayton and Co., 3 B. W. C. C. 583.

[11] Turvey v. Brintons, 6 W. C. C. 1; 1 K. B. 328.

[12] Nisbet v. Rayne and Burn, 3 B. W. C. C. 507; 2 K. B. 689. Board of Management, Trim Joint District School v. Kelly, 7 B. W. C. C. 274.

[13] Steel v. Cammell, Laird, and Co., 7 W. C. C. 9.

[14] Evans v. Dodd, 5 B. W. C. C. 305.

injuries by including a case of glanders contracted while handling hides,[1] rupture by heavy exertion,[2] pneumonia attributed to heavy lifting,[3] and a fatal systemic sepsis developing into pneumonia,[4] There are, of course, occasional decisions of less evident liberality. The New Jersey Supreme Court has accepted the general British principle that there can be no accidental injury under the act "when no specific time or occasion can be fixed upon as the time when the alleged accident happened."[5] And, in conformity with this principle, the Michigan Supreme Court has held that lead poisoning is not an accidental injury.[6]

On grounds of general principle, or in the pure theory of workmen's compensation, there is, of course, no reason whatever for restricting benefits to injuries sustained either by accident or in any other particular manner. It should be enough that the injury truly is a consequence of the employment. There are, however, practical reasons for the restriction, or at least intelligible and consistent explanations of it. An accident commonly has been understood to be a sudden, sharp, and brief experience, usually due to some external force or circumstance, likely to attract the attention of the subject and of others, and thus readily fixed in time and connected with a definite environment or employment. On the other hand, injuries received otherwise than by accident, especially the slowly developing ones, are not likely to attract attention for a time and cannot be traced so confidently to their causes. Thus they lend themselves to honest self-deception, as well as to false

[1] Hood and Son v. Maryland Casualty Co., 206 Mass. 223; 92 N. E. 329.

[2] Zappala v. Industrial Insurance Commission, 82 Wash. 314; 144 Pac. 54. Poccardi v. Public Service Commission, 84 S. E. 242.

[3] Bayne v. Riverside Storage and Cartage Co., 181 Mich. 378; 148 N. W. 412.

[4] Reck v. Whittlesberger, 181 Mich. 463; 148 N. W. 247.

[5] Lindale Bleach, Dye, and Paint Works v. Riker, 85 N. J. L. 426; 89 Atl. 929.

[6] Adams v. Acme White Lead and Color Works, 182 Mich.; 148 N. W. 485.

allegations and to frauds against the compensation laws. Here are the explanations both of the common limitation of benefits to accidental injuries and of the somewhat strict definitions of accident which appear in a few of the statutes.[1]

Doubtless it is desirable to prevent frauds against any law and to do this with the minimum of trouble and expense. But the balance of considerations probably weighs against the limitation to accidental injuries. Every unnecessary distinction drawn in a statute becomes a gratuitous source of contention and expense. And certainly there is grave fault in a compensation law which withholds its benefits from any class of disabilities which clearly are caused by the employment of the sufferers. All else being the same, the broader the scope of the laws the better. In the United Kingdom and elsewhere there have been found no insuperable difficulties in administering compensations for the slowly developed disabilities of occupational disease; and the experiences of Connecticut, Massachusetts, and Ohio have proved that in this country compensation laws without the limitation to injuries by accident may be very successful and generally satisfactory to all interested classes.[2] It cannot be without significance that California, after four years with a restricted law, in 1915, has eliminated every limiting reference to accidents.

There are no very instructive data to show the numbers of industrial injuries incurred otherwise than by accident. The reality of a true occupational morbidity and mortality is not doubted; but accidental and other

[1] See note 1 on page 25.

[2] California has covered injuries not by accident only since August 8, 1915. The brief first annual report of the Texas Industrial Accident Board contains no relevant data. And, at this writing, I have been unable to secure a copy of the first report upon the operation of the West Virginia law.

causes are combined in the common statistical statements and comparisons. Quite certainly the injuries not due to accidents make no large part of all injuries; and yet their numbers are much too great to be ignored in the writing of a compensation statute. The table of causes for the 89,694 non-fatal injuries classified in the first annual report of the Massachusetts Industrial Accident Board (248–287) shows convincingly enough that nearly all must have been of accidental origin. Very similar is the teaching of the less satisfactory data from Washington.[1] But in the reported decisions of Massachusetts and Ohio appear not a few cases of compensated injuries not fairly to be pronounced accidental. And in Washington in the year, 1913–14, and in Wisconsin in 1914–15 rather more than 24 per cent of the claims disallowed were rejected as resting upon disabilities which were not the result of accidents.[2]

One limitation, in part fairly implied in the very nature of workmen's compensation, is expressed formally and definitely in most of the statutes in a double phrase borrowed from the British act, which provides awards for injuries by accident "arising out of and in the course of the employment." Twenty-six of the American states have adopted this expression without change,[3] while two others substitute close equivalents.[4]

[1] Annual Reports, 1912, pp. 121, 172, and 173; 1913, p. 104; 1914, pp. 113–118.

[2] Washington, 24.42%, 197 out of 807 (Third Annual Report, p. 80). Wisconsin, 24.56%, 42 out of 171 (Fourth Annual Report, p. 40).

[3] Alaska, 1. Arizona, 66; 71. California, 12 (*a*). Colorado, 8, iii. Connecticut, B, 1. Hawaii, 1. Illinois, 1. Indiana, 2; 76 (*d*). Iowa, 10. Kansas, 1. Louisiana, 2. Maine, 11. Maryland, 14. Massachusetts, II, 1. Michigan, II, 1. Minnesota, 9. Montana, 16. Nebraska, 9; 10. Nevada, 1 (*a*); but see 25. New Hampshire, 3. New Jersey, 7. New York, 10; 3, 7. Oklahoma, art. 1, sec. 3, 7; art. 2, sec. 1. Oregon, 12; 21. Rhode Island, II, 1. Vermont, 4.

In Arizona alone the law does not cover comprehensively all accidental injuries arising out of and in the course of employment, but only such of them as are due wholly or in part to certain specified particular causes. The list of causes specified is broad and includes necessary risks and dangers of the employment, failure of due care, and violation of law; but it is by no means certainly complete.

[4] West Virginia: "in the course of and resulting from" — 25. Wyoming: "a result of their employment and while at work . . ." — 6 (*l*).

The first part of the phrase, "arising out of the employment," taken alone and in its natural and simple meaning, matches so well with the purpose of workmen's compensation that it is not easy to find reasons for obscuring it by the addition of the second. The layman's common sense and the judge's formal interpretation are happily agreed in declaring that the first part refers to the origin or cause of the injury, while the second marks merely the time and circumstances of its occurrence.[1] Let now plain terms be but taken as discreet arbitrators, commissioners, and judges naturally would take them: and not a great many injuries will be found to be caused by an employment outside of its course or time. And, whenever any may so be found, fairly due to the employment, the underlying principle of the law requires that they be compensated.

Were it possible to assume that the American statutes, and the British, have been drawn in ignorance of the course of British and American decisions in employers' liability and workmen's compensation cases, an explanation of the doubled phrasing might be found readily in the draftsmen's purpose to restrict the awards narrowly to injuries sustained in the very hours and minutes of active engagement at the tasks of the employment. And such a purpose would be natural enough in men trained to regard the employer's fault as the necessary condition of his liability and inclined to magnify the difficulty of proving the circumstances of injuries received elsewhere than under the eye of the employer or his representative. But it is manifest that the statutes generally have been prepared by men well informed in the law; and there are British and American decisions too numerous to be cited here in which it has been held that the course of employment is not limited to the time

[1] Fitzgerald v. Clarke and Son, 1 B. W. C. C. 197.

spent actively and directly in the processes of the occupation. "The great weight of authority is to the effect that the relation of master and servant is not suspended from the time a laborer arrives upon the premises and becomes subject to the orders and control of the master until he quits for the day." [1]

But, under the generously construed compensation laws, the course of employment is even broader. It may include riding to or from work in the employer's conveyance,[2] or in a public conveyance by understanding with him,[3] even waiting at the station for a train,[4] and a reasonable amount of time on the employer's premises before and after actual work.[5] It may include a brief intermission for forenoon luncheon,[6] eating noon luncheon on the employer's premises,[7] going from the employer's premises by a way neccessarily used,[8] answering calls of nature,[9] warming one's self within working hours,[10] making toilet preparatory to leaving the premises,[11] and going for pay even outside of regular working hours.[12] It has been held to include even going for a Sunday visit to one's wife [13] and, under special

[1] W. F. Bailey, A Treatise on the Law of Personal Injuries, pp. 61–62, citing cases.

[2] Mole v. Wadworth, 6 B. W. C. C. 129. Daniel Donovan's Case, 217 Mass. 76; 104 N. E. 431. See also, Cicalese v. Lehigh Valley Railway Co., 75 N. J. L. 897; 69 Atl. 166.

[3] Holmes v. Great Northern Railway Co., 2 W. C. C. 19.

[4] Cremins v. Guest, Keen, and Nettlefolds, 1 B. W. C. C. 160.

[5] De Constantin v. Public Service Commission, 83 S. E. 88.

[6] Clem v. Chalmers Motor Co., 178 Mich. 340; 144 N. W. 848.

[7] Blovelt v. Sawyer, 6 W. C. C. 16. See also, Heldmaier v. Cobbs, 195 Ill. 172; 62 N. E. 853.

[8] Emily M. Sundine's Case, 218 Mass. 1; 105 N. E. 433.

[9] Elliott v. Rex, 6 W. C. C. 27. Zabriskie v. Erie Railway Co., 85 N. J. L. 157; 88 Atl. 824; 86 N. J. L. 266; 92 Atl. 385.

[10] Parkinson Sugar Co. v. Riley, 50 Kans. 401; 31 Pac. 1090. Not a compensation case.

[11] Terlecki v. Strauss, 85 N. J. L. 454; 89 Atl. 1023; 86 N. J. L. 708; 92 Atl. 1087. See also, Helmke v. Thilmany, 107 Wisc. 216.

[12] Lowry v. Sheffield Coal Co., 1 B. W. C. C. 1. Riley v. Holland and Sons, 4 B. W. C. C. 155.

[13] Richardson v. Morris, 7 B. W. C. C. 130.

conditions, going to a public house for a glass of beer.[1] In fact, it includes all the time " while the employee is doing what a man so employed may reasonably do within a time during which he is employed, and at a place where he may reasonably be during that time." [2] It is not easy to see how less liberal interpretations could do practical justice to the employee; and, under such interpretations,[3] there is not in the addition of the second part of the limiting phrase much more than the characteristic prolixity of the legislative draftsman. It might be different were it permissible to construe the phrase, " in the course of employment," as narrowly as laymen naturally incline to construe it.

However, the full expression has been interpreted so generously in British and American courts that it permits awards for nearly or quite all disabilities, or accidental disabilities, which can be traced to the employment of the disabled.[4] An injury arises out of the employment when " there is apparent to the rational

[1] Martin v. Lovibond and Sons, 7 B. W. C. C. 243.

[2] Bryant v. Fissell, 84 N. J. L. 72; 86 Atl. 458.

[3] In a few of the states the liberality of the courts has been curbed somewhat by statutory definitions of the course of employment. The Kansas law declares that the words, " arising out of and in the course of employment," shall not be construed " to include injuries to the employee occuring while he is on his way to assume the duties of his employment or after leaving such duties, the proximate cause of which injury is not the employer's negligence " — 9 (*k*). A Wyoming definition is substantially the same — 6 (*l*). In Minnesota the familiar words do not cover " workmen except while engaged in, on, or about the premises where their services are being performed, or where their service requires their presence as a part of such service at the time of the injury and during the hours of service as such workmen " — 34 (*i*). A Nebraska restriction is the same — 32 (*c*).

[4] Not, however, in quite all states. Iowa allows no compensations for injuries caused " by the wilful act of a third person directed against the employee for reasons personal to him or because of his employment " — 17 (*f*). The same limitation has just been copied in Wyoming — 6 (*m*). Colorado covers no injuries " intentionally inflicted by another " — 8, iii. Vermont, on the other hand, expressly includes " an injury caused by the wilful act of a third person directed against an employee because of his employment " — 58 (*d*); and Hawaii has identically the same provision — 60 (*d*). Pennsylvania also has the more liberal policy, excluding only injuries " by an act of a third person intended to injure the employee because of reasons personal to him, and not directed against him as an employee or because of his employment " (act 338, sec. 301). The Pennsylvania provision was copied verbatim from Minnesota — 34 (*i*).

mind, upon consideration of all the circumstances, a causal connection between the conditions under which the work is required to be performed and the resulting injury,"[1] or "when it is something the risk of which might have been contemplated by a reasonable person, when entering the employment, as incidental to it,"[2] and when the risk of it is "reasonably incident to such employment, as distinguished from risks to which the general public is exposed.[3] The liberality of the courts' interpretations may be illustrated by their allowance of awards for death at the hands of an intoxicated fellow employee whose pugnacity in his cups was known to the employer's superintendent,[4] for death by the unintended act of another employer's servant,[5] death met in avoiding the playful prank of a fellow employee,[6] death of an ice driver by lightning while seeking shelter under a tree,[7] death of a bricklayer from the same cause while at work upon a high scaffold,[8] death of a cashier at the hands of robbers,[9] suffocation of a household servant in her room by the burning of the house,[10] the injury of a gamekeeper by poachers,[11] injury due to a fellow employee's disobedience of a foreman's orders,[12] injury by the bite of a stable cat while eating dinner in the employer's stable,[13] injury to canvassers and collectors

[1] Stuart McNicol's Case, 215 Mass. 497; 102 N. E. 697.

[2] Bryant v. Fissell, 84 N. J. L. 72; 86 Atl. 458.

[3] Hopkins v. Michigan Sugar Co., 150 N. W. 325.

[4] Stuart McNicol's Case, 215 Mass. 497; 102 N. E. 697.

[5] Bryant v. Fissell, 84 N. J. L. 72; 86 Atl. 458.

[6] Hulley v. Moosebrugger, 93 Atl. 79.

[7] State ex rel. People's Coal and Ice Co. v. District Court of Ramsey Co., 153 N. W. 119.

[8] Andrew v. Failsworth Industrial Society, 6 W. C. C. 11.

[9] Nisbet v. Rayne and Burn, 3 B. W. C. C. 507.

[10] Chitty v. Nelson, 2 B. W. C. C. 496.

[11] Anderson v. Balfour, 3 B. W. C. C. 588.

[12] Scott v. Payn Bros., 85 N. J. L. 446; 89 Atl. 927.

[13] Rowland v. Wright, 1 B. W. C. C. 192.

while on their rounds afoot[1] and by bicycle,[2] injury to a miner reaching from a car for his fallen pipe,[3] and a fall and injury due to an epileptic seizure.[4]

In regard to the principles apparently involved in some of these cases there is not, however, full agreement among the judges. Fortunately, it is not necessary in an economic study to trace with precision the lines of judicial discrimination. It is enough to note that the courts generally are extremely liberal in holding that injuries have arisen out of and in the course of employment. British courts have been more strict than the New Jersey Supreme Court and have denied compensation to a boy injured in avoiding the pranks of a mate,[5] as to others injured as a consequence of their own play.[6] In reference to the occasional injuries by lightning and other natural forces a reconciliation of apparently different decisions can be had best through the principle, avowed plainly in some cases, that there is no basis for compensation unless the workman was more exposed than the public[7] or than other outdoor workers.[8] Upon this principle has been rested the

[1] Refuge Assurance Co. v. Millar, 49 Sc. L. R. 67; 5 B. W. C. C. 522

[2] Pierce v. Provident Clothing and Supply Co., 4 B. W. C. C. 242.

[3] M'Lauchlan v. Anderson, 4 B. W. C. C. 376.

[4] Wilkes (or Wicks) v. Dowell and Co., 7 W. C. C. 14.

[5] Wm. Baird and Co. v. Burley, 1 B. W. C. C. 7. In the case of Hulley v. Moosebrugger (93 Atl. 79) the New Jersey Supreme Court said: "In the case under consideration, it appears that the prosecutor employed young men and boys. It is but natural to expect them to deport themselves as young men and boys, replete with the activities of life and health. For workmen of that age or even of maturer years to indulge in a moment's diversion from work to joke with or play a prank upon a fellow workman is a matter of common knowledge to every one who employs labor. At any rate, it cannot be said that the attack made upon the decedent was so disconnected from the decedent's employment as to take it out of the class of risks reasonably incident to the employment of labor."

[6] Cole v. Evans and Son, Lescher and Webb, 4 B. W. C. C. 138. Furniss v. Gartside and Co., 3 B. W. C. C. 411. Wrigley v. Nasmyth, Wilson, and Co., 6 B. W. C. C. 90.

[7] Kelly v. Kerry County Council, 1 B. W. C. C. 194. Warner v. Couchman, 5 B. W. C. C. 177. Klawinski v. Lake Shore and Michigan Southern Railway Co., 152 N. W. 213.

[8] Hoenig v. Industrial Commission et al., 159 Wisc. 646; 150 N. W. 996.

refusal of compensation to a British sailor, frostbitten on his ship in the port of Halifax,[1] a baker's boy similarly injured while making deliveries,[2] and to a messenger who fell in a faint on the street on a very hot day.[3] One might question whether such a principle is consistent with the theory of workmen's compensation or with its practical beneficence. On very hot and very cold days and during storms the general public are not likely to be about much out-of-doors; and employees who are forced to be about regardless of weather have a true occupational hazard in their necessary exposure to injurious natural conditions. Manifestly out of harmony with the spirit and purpose of workmen's compensation is the comparison of employment with employment. Logically and generally applied, it would mean a refusal of awards for injuries from dangers present in all employments, whether in identical form or in equivalent degree. It is surprising that such a principle should have found acceptance in the liberal Supreme Court of Wisconsin.

Oddly enough, while none of the states have been content with the single phrase which would have corresponded to the ideal and purpose of workmen's compensation, there are some which have used only the temporal phrase, thus providing compensations for injuries suffered "in the course of employment," whether or not these may have been due to the employment, or have arisen out of it. Such is the simple expression in Ohio, Pennsylvania, Texas, and Washington.[4] The Wisconsin statute declares that its benefits are due "where, at the time of the accident, the employee is

[1] Karemaker v. Owners of S. S. "Corsican," 4 B. W. C. C. 295.

[2] Warner v. Couchman, 5 B. W. C. C. 177.

[3] Rodgers v. Paisley School Board, 49 Sc. L. R. 413; 5 B. W. C. C. 547.

[4] Ohio, secs. 68 and 72; Pennsylvania, act 338, sec. 301; Texas, I, secs. 1 and 4; Washington, sec. 5.

performing service growing out of and incidental to his employment" (3, 2). In Nevada the law, having ordained at first (1) that the awards shall be for injuries "arising out of and in the course of the employment," thereafter (25) authorizes payment to every employee "who shall be injured by accident arising out of or in the course of employment." [1]

The cases of injuries received in the course of employment but not arising out of the employment are so familiar, have, indeed, played such a part in the administration of compensation laws that no legislative draftsman or interested legislator can have been ignorant of them. Apparently, therefore, it was the deliberate intent in Ohio, Pennsylvania, Texas, Washington, and Wisconsin [2] to provide the compensations for injuries not properly due to the employment and thus to make the employer something like a general insurer of his employees against accidents or injuries during the course of their employment. The Washington Industrial Insurance Commission has attempted to read into the law of that state a condition that injuries must have been caused by the occupation, must have "occurred out of and incidental to" the employment,[3] a condition

[1] The intent of the legislature in the second of the sections quoted is not easily conjectured. The words quoted are the result of an amendment of 1915, passed after the industrial commission had called attention to the fact that "the words, 'arising out of and in the course of employment,' are conjunctive and not disjunctive. They mean distinct things; hence compensation is restricted to such injuries as both arise out of and are in the course of employment." (Report, 1913–14, pp. 25–26.) Yet the conjunctive expression was left unchanged in the first section.

[2] Contrary to its avowed principle, the Wisconsin Supreme Court appears to have read something into the law in the case of Hoenig v. Industrial Commission et al. (159 Wisc. 646; 150 N. W. 996). Hoenig had been killed by lightning while at work upon a dam. The attorneys for his widow, the claimant, urged pointedly the fact that the Wisconsin statute contains no express limitation to injuries arising out of the employment. But the court, reviewing the history of the act and the course of the decisions in other jurisdictions, concluded that the Wisconsin law "was not intended to include other than industrial accidents or 'hazards incident to the business,'" and held that the deceased had not been more exposed than other outdoor workers. The court was confirming decisions by the court below and by the industrial commission; but it spoke its own mind also.

[3] Annotated edition of the act for 1915, p. 14.

which cannot well be made to prevail in court, in view of the unambiguous provision of the statute (5) that "each workman who shall be injured, . . . he being in the course of his employment, . . . shall receive out of the accident fund compensation in accordance with the following schedule." But in the natural sense of its generous phraseology the Ohio law has been construed and applied habitually by the industrial commission of that state; [1] and a similar construction of the Wisconsin law was formerly given by the Wisconsin Industrial Commission.[2]

To hold an employer liable for injuries not caused by his employment assuredly is not in strict keeping with the theory of workmen's compensation; and, in so far, it is objectionable. But objection need not be strong. The injuries incurred in the course of employment from causes not arising out of the employment are relatively very few and are due largely to the forces of nature, lightning, cold, or heat, or to the passions or tempers of men, in anger or in play. Especially in America, where those engaged in outdoor work, in the landed industries and in transportation, so commonly are excluded from the protection of the compensation laws, those who are protected are exposed to few hazards in the course of their employments save such as grow out of the employments. It can increase but little the employer's charges to broaden the scope of the law. Indeed, the final outcome may be no increase of charges. Experience has shown that often it is a nice and debatable question whether an injury in the course of employment arose out of the employment, whether, for example, the injured employee was more exposed than others to the violence of nature by which he suffered, whether, there-

[1] Bulletin, December 1, 1914, pp. 52, 76.

[2] Annotated edition of act of 1913, p. 7, note 10.

fore, his sunstroke, his freezing, or his injury by lightning should be attributed to his employment. To escape such litigious questions and their attendant expense well may be worth the sacrifice of some detail of theoretical consistency in a statute.

By a closeness of construction which is not beyond that heard frequently in courts of law and which already has been illustrated in compensation cases on both sides of the ocean, a distinction may be made between accident, injury, and disability. An accident may cause injury, or appreciable injury, only after a time; and a known injury may develop but slowly into a disability. In so far as compensation depends upon the accident, injury, or disability arising out of the employment, the distinction is of no consequence. If an accident arises out of any cause, so, too, does a resultant injury or disability. But it is quite possible that from an accident or injury in the course of an employment no injury or disability may result until after the course of the employment is suspended or at an end. Infections are familiar illustrations.

It is of interest, therefore, to note that in no less than 30 of the states the phrasing of the statutes makes the experiencing of the injury in the course of the employment a condition of compensation. In California, Connecticut, Illinois, Iowa, Maryland, Massachusetts, Michigan, Minnesota, Montana, New Hampshire, New York, Ohio, Oklahoma, Pennsylvania, Texas, Washington, West Virginia, and Wyoming this is unmistakably and evidently so. In Alaska, Arizona, Hawaii, Indiana, Kansas, Louisiana, Maine, Nebraska, New Jersey, Oregon, Rhode Island, and Vermont the collocation of words, "injury by accident arising out of and in the course of" employment, might make another meaning superficially plausible, as might the phrasing in Minne-

sota were not the adjective character of the phrase, "caused by accident," there emphasized by inclusion between commas. But it is not quite natural to speak of accidents arising: accidents occur or happen. Injuries arise. Moreover, the very expression now under consideration has been construed specifically to our present enlightenment in the case of Fenton *v.* Thorley.[1] There remain, therefore, only Colorado, Nevada, and Wisconsin which state plainly that accident or injury in the course of employment shall be valid basis for compensation, whensoever the injury or disability may develop.[2] In view of the liberal and remedial character of the laws, declared sometimes in the statutes themselves and frequently recognized by the courts, disabled employees are not likely often to lose their awards through a narrow literalness of interpretation; but there is no good reason why legislatures should throw upon the courts the duty of giving to the laws meanings which the law-makers themselves might have given.

Nothing is more vital in workmen's compensation laws, or better known, than their general disregard of personal fault or responsibility as a condition of liability or of right. It is not now in order to describe the conditions of employer's grave fault or remissness under which in several of the states an injured employee may, at his option, either claim compensation benefits or seek other remedy,[3] or under which in a few states payments

[1] 5 B. W. C. C. 1, 5. "The words 'by accident' are, I think, introduced parenthetically as it were to qualify the word 'injury,' confining it to a certain class of injuries and excluding other classes, as, for instance, injuries by disease or injuries self-inflicted by design. Then comes the question, do the words 'arising out of and in the course of the employment' qualify the word 'accident' or the word 'injury' or the compound expression 'injury by accident'? I rather think the latter view is the correct one."

[2] Colorado, 8, iii; Nevada, 25; Wisconsin, 3. A similar construction may be made of section 66 of the Arizona law, but not of section 71, which directly establishes the benefits.

[3] California, 12 (*b*). Iowa, 3 (*b*). Maryland, 44. New Hampshire, 3. Ohio, 76. Oregon, 22; 24. Texas, I, 5. Washington, 6. West Virginia, 28.

on account of injuries are increased.[1] It is enough here to record the fact that, everywhere, either by direct compulsion of the state or by his own election, according to the nature of the statute, the employer comes under an obligation to pay compensations regardless of his own fault, actual or lawfully imputed. This fact is declared pointedly in several of the statutes;[2] but, whether declared expressly or not, it is the essential foundation of all compensation systems.

For the most part, too, ordinary or trivial faults and remissnesses of the injured employees do not forfeit rights to compensation. But in all the states save Arizona, Illinois, Montana, and Texas no compensations are to be paid on account of injuries caused by the graver faults of the injured.[3] The provisions of the statutes differ somewhat in their strictness and very greatly in their terms; so that their exact purport cannot well be had without direct reference to the statutes.[4] Historically and logically they may be traced back to the British act of 1897, by which benefits were denied to those employees whose injuries were caused by their own "serious and wilful misconduct."

[1] Massachusetts, II, 3. Washington, 9. Wisconsin, 9, 5 (a).

[2] (Arizona, 70.) California, 12 (a). Maryland, 14. Minnesota, 9. Nebraska, 10. New Jersey, 7. New York, 10. Oklahoma, art. 2, sec. 1. Pennsylvania, act 338, sec. 301. Washington, 1.

[3] In the optional acts there is a source of possible confusion in the fact that the employee's fault which forfeits compensation is not always the same as that which will bar a recovery in an action at law under the liability sections. In New Jersey "wilful negligence" bars recovery in an action (1); but only intentional self-infliction of injury and intoxication forfeit compensation (7). In Texas the employee's fault is not mentioned in the compensation sections; but his "wilful intention" to bring about his injury is good defense in suits at law (I, 1, 3).

[4] Alaska, 4. California, 12 (a), 3. Colorado, 8, iii; 61. Connecticut, B, 1. Hawaii, 3. Indiana, 8. Iowa, 2 (a). Kansas, 1. Louisiana, 28, 1. Maine, 8. Maryland, 14; 45. Massachusetts, II, 2. Michigan, II, 2. Minnesota, 9. Nebraska, 9; 10; 52 (d). Nevada, 2; 39. New Hampshire, 3. New Jersey, 7. New York, 10. Ohio, 68; 72. Oklahoma, art. 2, sec. 1. Oregon, 22. Pennsylvania, act 338, sec. 301. Rhode Island, II, 2. Vermont, 6. Washington, 6; 9 (b). West Virginia, 28. Wisconsin, 3, 3; 9, 5 (b) and (d). Wyoming, 2; 19.

The original British expression survives quite unmodified in Massachusetts and with additions in Connecticut and New Hampshire. Elsewhere it has been modified, and commonly in one or both of two ways, in the direction of greater leniency to employees and by greater explicitness and the addition of specific forms of misconduct, which might or might not have been covered by the more general expression. Apparently for the avoidance of disputes as to degrees of seriousness, the general and fundamental phrase has been changed to "wilful misconduct" in some states [1] and to "intentional and wilful misconduct" in one.[2] Oftener the central phrase is "wilful intention," or "deliberate intention," or an equivalent. Of the additional specifications much the most frequent is intoxication or intoxication while on duty. Others are failure to observe rules or laws of safety, removal or failure to use machine guards, and the like. But each state has its own peculiar phraseology: no two agree fully. And in some the conditions are so easy for the employee that they are nearly the same as none.[3]

As to the general propriety of withholding compensation from a workman who has been injured through his own grave fault there cannot be wide divergence of opinion among those quite free from prejudice in the matter. Men may not agree as to how much of fault may be condoned; but it will strike most as self-evident that benefits ought not to be paid with no regard whatever to the fault of the injured. The wonder is that four states have not accepted the principle. Their reason must be in a knowledge that truly serious fault is very unusual [4]

[1] California, Indiana, Maryland, and West Virginia. [2] Michigan.

[3] Ohio: "purposely self-inflicted." Pennsylvania and Wisconsin: "intentionally self-inflicted." Washington and Oregon: "deliberate intention to produce the injury."

[4] Under the Wisconsin statute of 1911 wilful misconduct did not forfeit compensation in one of more than 5,000 cases (Annotated text of act of 1913, p. 7).

and in a desire to preserve in their statutes the utmost possible simplicity and freedom from points of contention.

On the whole, the conditions of forfeiture in most of the states are not unreasonable. At least, they do not bear unreasonably upon employees. The trend of legislation is toward allowing awards except when the employee has disregarded or thwarted measures for his own safety, has been intoxicated, or has been guilty of conduct approaching or reaching deliberate intention to injure himself or another. But there are two changes, both toward still greater liberality, for which strong argument can be made. There is much to be said for the British policy of allowing compensation to the dependents of fatally injured workmen, no matter what the fault of the deceased. To do otherwise is to make the innocent suffer for the sins of the guilty, and sometimes to make them suffer bitterly. There is something to be said, too, for the policy of reducing and not denying altogether the benefits of those who have been guilty of certain forms of fault, as already is done in a few of the states.[1] The accepted rule that any claimant or plaintiff must make out his case implies that an injured employee must show his innocence of the specified fault. So, too, does the phrasing of the law in a few states.[2] In others, however, the words of the statutes imply rather the contrary;[3] and in some it is declared expressly that the burden of proving the fault shall be upon the employer[4] or that the presumption shall be in favor of the claimant.[5]

[1] Colorado reduces by 50 per cent (61); Nevada by 25 per cent (39); Wisconsin by 15 per cent (9, 5); and Washington by 10 per cent (9).

[2] California, Colorado, Wisconsin.

[3] Iowa, Kansas, Maine.

[4] Hawaii, 3. Indiana, 8. Louisiana, 28, 2. Minnesota, 9. Nebraska, 10. New Jersey, 7. Pennsylvania, act 338, sec. 301. Vermont, 6.

[5] Maryland, 61. New York, 21. Oklahoma, art. 2, sec. 11.

In view of the extremely varied terms in which the conditions of forfeiture are expressed in the several states, it is not possible to make comprehensive and definite comment upon the interpretations of the commissions and the courts. In general, it may be said that the conditions have been construed generously for the injured, very generously indeed in most states and in most cases. The degree of seriousness in misconduct is measured, not by the actual consequences in a particular case, but rather by the consequences which might be anticipated by a reasonable person.[1] "Serious and wilful misconduct is a very different thing from negligence or even from gross negligence. It resembles closely the wanton or reckless misconduct which will render one liable to a trespasser or a bare licensee."[2] It is not necessarily serious and wilful misconduct merely to disobey the directions which an employer has given.[3] It is not intentional and wilful misconduct to violate a factory rule which is not enforced[4] or for a foreigner unable to understand English to refuse to undergo an operation which involves serious peril to life.[5] In Wisconsin under the law of 1911 it was not wilful misconduct to become intoxicated.[6]

The oft puzzling problems of remote, combined, and conflicting causation have been left generally to the discretion of the commissioners and judges who may

[1] Hill v. Granby Consolidated Mines, 1 B. W. C. C. 436. Johnson v. Marshall, Sons, and Co., 8 W. C. C. 10; 22 T. L. R. 565.

[2] Lester Nickerson's Case, 218 Mass. 158; 105 N. E. 604.

[3] Mawdsley v. West Leigh Colliery Co., 5 B. W. C. C. 80. Watkins v. Guest, Keen, and Nettlefolds, 5 B. W. C. C. 307. Chilton v. Blair and Co., 7 B. W. C. C. 607. M'William v. Great North of Scotland Railway Co., 7 B. W. C. C. 875.

[4] Rayner v. Sligh Furniture Co., 180 Mich. 168; 146 N. W. 665.

[5] Jendrus v. Detroit Steel Products Co., 178 Mich. 265; 144 N. W. 563.

[6] Nekoosa-Edwards Paper Co. v. Industrial Commission et al., 154 Wisc. 105; 141 N. W. 1013. "The drinking of intoxicating liquors is wilful in the sense of intentional, but the mere fact of drinking is not misconduct."

administer the laws. Commonly it is for those officers to determine the true causes of injuries. In only a few of the statutes, and chiefly in relations of secondary importance, is any express reference made to partial as against exclusive causation; but in those some short lines are marked plainly for the guidance of the officers administering the laws. In Arizona the benefits generally are payable for injuries due " in whole or in part " to any of the causes specified as entitling to compensation (66). In New Hampshire no awards can be made for injuries caused " in whole or in part by the intoxication, violation of law, or serious and wilful misconduct of the workman " (3) And in Nebraska injuries caused " in any degree " by wilful negligence are not compensated (9). In Maryland (14) and New York (10) it is only as sole cause of injury that intoxication forfeits compensation; and in Kansas there can be no awards for injuries caused solely by intoxication or violation of safety laws (1).

Only a little closer to the real problems of causation is the approach made in the occasional references to proximate causes, by which are to be understood something like true causes. [1] In Colorado (8, iii) all injuries must be caused proximately by the accident; and in California (12) and Wisconsin (3, 3; 9, 3) the regular benefits are payable only when the injuries are caused proximately by the employment or the accident and when deaths are caused proximately by the injuries. In a few other states a connection of proximate causation is required expressly in certain special relations. In Michigan (II, 12) and Montana (12) particular provisions are made for long delayed deaths proximately due to the injuries. In Alaska (4) and Iowa (2) intoxication as proximate cause of injuries forfeits compensation.

[1] City of Milwaukee v. Industrial Commission et al., 160 Wisc. 238; 151 N. W. 247.

There are no awards for injuries of which intoxication is the natural and proximate cause in New Jersey (7) or of which it is the natural or proximate cause in Minnesota (9). In Kansas (9) and Wyoming (6) no injuries received outside of the regular time and place of work are covered by the law unless they are caused proximately by the employer's negligence. In Oklahoma (art. 2, sec. 1) injuries caused directly by intoxication or failure to use machine guards may not be compensated.

In their interpretations of causation the courts have shown a liberality consistent with the spirit and purpose of the laws. The opinion of Lord Loreburn, in the case of Clover, Clayton, and Co. *v.* Hughes, has been quoted with approval and applied in this country. "It seems to me enough if it appears that the employment is one of the contributing causes without which the accident which actually happened would not have happened, and if the accident is one of the contributing causes without which the injury which actually followed would not have followed."[1] Explained by such a generous principle are the awards made in a case of blindness from accident, then insanity, softening of the brain, and death,[2] injury, insanity, and suicide,[3] death as an immediate consequence of bed sores and blood poisoning growing out of treatment for an injury,[4] infection and ankylosis from an unguarded splint used in the treatment of a fracture,[5] as well as many of the awards for disabilities and deaths primarily due to weakness or chronic disease but advanced by industrial injuries

[1] Newcomb v. Albertson, 85 N. J. L. 435; 89 Atl. 928.

[2] Mitchell v. Grant and Aldcraft, 7 W. C. C. 113.

[3] Charles J. Sponataki's Case, 220 Mass.; 108 N. E. 466.

[4] John J. Burns's Case, 218 Mass. 8; 105 N. E. 601.

[5] Newcomb v. Albertson, 85 N. J. L. 435; 89 Atl. 928.

and for injuries which did not manifestly arise out of the employment.

Having satisfied the requirements of the law as to causes, accidents entitle to compensation only if the result, or consequence, also meets certain conditions. In general, these may be described either as personal injury producing disability or death, or as disability or death from personal injury. In either form the definite requirement of a personal injury as the condition of compensation is unnecessary and unfortunate, serving, by itself alone, merely to complicate somewhat the law and its administration.[1] The established fact of disability or death should be, of itself, proof enough of personal injury. The advantage of having, as it were, a visible peg of injury upon which to hang the disability is more apparent than real. Granted the fact of disability, and arbitrators, commissioners, juries, and judges alike may be trusted to find or infer a personal injury behind it. Probably American experience with workmen's compensation reveals not a single instance of benefits denied a disabled workman because of the absence of any personal injury whatever. For personal injury, in that legal usage which must control in the interpretation of compensation laws, is a comprehensive term and by no means is limited to the effects of physical violence, visual contact, or direct lesion.[2] Except as special restrictions prevent, it includes, among other things, the contraction of disease,[3] aggravation of exist-

[1] Early and late no small amount of energy has been expended in courts of law in determining the meaning of personal injury. Any law dictionary or digest will give a hint of this. See, also, the cases cited specifically to this point by the Massachusetts Supreme Judicial Court in the cases of William Hurle (217 Mass. 223; 104 N. E. 336) and Otto F. Johnson (217 Mass. 388; 104 N. E. 735). In a few of the states, Hawaii, Iowa, Montana, and Vermont, it has been thought necessary to enact that personal injury includes death.

[2] William Hurle's Case, 217 Mass. 223; 104 N. E. 336.

[3] Martin v. Manchester Corporation, 5 B. W. C. C. 259.

ing disease,[1] sunstroke,[2] heatstroke,[3] frostbite,[4] insanity,[5] and mental or nervous shock.[6]

Not in all of the American states, however, can so broad an interpretation of personal injury prevail; for there are a number of direct statutory limitations. Already, in another connection, it has been seen that injuries caused by the wilful acts of others are excluded in some states.[7] In others there can be no injuries under the acts without "objective symptoms of an injury," or "injury to the physical structure of the body," or "violence to the physical structure of the body."[8] In still more states general diseases are excluded unless they are the result of injuries in the employment;[9] while Nebraska adds further a specific exclusion of "occupational disease in any form" and "any contagious or

[1] Clover, Clayton, and Co. v. Hughes, 3 B. W. C. C. 275.

[2] Morgan v. Owners of S. S. "Zenaida," 2 B. W. C. C. 19.

[3] Ismay, Imrie, and Co. v. Williamson, 1 B. W. C. C. 232. See also Claim of Elizabeth Rees et al., Bulletin of Ohio Industrial Commission, December 1, 1914, p. 194.

[4] Warner v. Couchman, 4 B. W. C. C. 32; 5 B. W. C. C. 177. Karemaker v. Owners of S. S. "Corsican," 4 B. W. C. C. 295. See also the case of George Dougherty, decided by the Massachusetts Industrial Accident Board (Reports of Cases, vol. ii, p. 661) and the claim of Henry Skougstad, allowed by the Wisconsin Industrial Commission (Fourth Annual Report, p. 31).

[5] Malone v. Cayzer, Irvine, and Co., 1 B. W. C. C. 27. Charles J. Sponatski's Case, 220 Mass.; 108 N. E. 466.

[6] Yates v. South Kirby, Featherstone, and Hemsworth Collieries, 3 B. W. C. C. 418. Wm. Diaz's Case, 217 Mass. 36; 104 N. E. 384. In Massachusetts payments have been granted for such injuries as "highly nervous state and delusions," "a nervous upset and a neurotic condition," etc. In confirming an award for neurosis following injury the Industrial Accident Board has held that "the mental, nervous, or hysterical effects of an accident, such as this employee sustained, are just as much a 'personal injury' as are the physical effects (Reports of Cases, vol. ii, p. 434).

[7] Page 32, note 4.

[8] Louisiana, 38; 39. Minnesota, 34 (*h*). Nebraska, 52 (*d*). Pennsylvania, act 338, sec. 301.

[9] Wyoming: "except as it shall directly result from an injury incurred in the employment" — 6 (*m*). "Except as it shall result from the injury" — Indiana, 76 (*d*); Iowa, 17 (*g*); Vermont, 58 (*d*). "Except as it shall result from injury" — Hawaii, 60 (*d*). Except "such disease or infection as naturally results" from "violence to the physical structure of the body" — Louisiana, 39; Nebraska, 52 (*b*); Pennsylvania, act 338, sec. 301. Except "such disease or infection as may naturally and unavoidably result" from accidental injuries — Maryland, 62, 6; New York, 3, 7; Oklahoma, art. 1, sec. 3, 7. Injuries caused by "some fortuitous event as distinguished from the contraction of disease" — Montana, 6 (*q*); Washington, 3.

infectious disease contracted during the course of employment." Save as the laws of Maryland, New York, and Oklahoma refer to consequences both natural and unavoidable, few of these specific and qualified exclusions probably do more than to emphasize limitations elsewhere carried in the statutes of all these states in the requirement that the injuries to be compensated must be of accidental origin in the employment.

Notoriously, it is the purpose of workmen's compensation laws to provide compensation, or partial compensation, only for pecuniary losses through stoppage or reduction of earnings.[1] But in several of the statutes there are provisions under which benefits sometimes may be claimed or paid regardless of any impairment of earnings or earning capacity. Although it has appeared as yet only in some eight or nine of the states, there is an unmistakably increasing tendency to grant compensations expressly for disfigurements.[2] The reason for this apparent departure from the cardinal principle of workmen's compensation is not far to seek. Inability to secure employment because of an injury is inability to earn because of the injury.[3] And in many positions a disfigured man or woman will be an unacceptable employee, although perfectly capable of perform-

[1] To the extent of receiving more or less of medical and surgical care, all occupational injuries are covered by the laws of most states. But this curative treatment, while of the highest importance for employer and employee alike, is not a part of the compensations, in the strict or usual understanding of the term. In Alaska, Washington, and Wyoming there is no medical care whatever; in Arizona, Kansas, and New Hampshire there is none except as carried in the modest provision for the last sickness and the burial of those who die and leave no dependents. Elsewhere care, without limit of cost or duration in Connecticut and with limits of cost or duration or both in the other states, is provided for all injuries.

[2] 1911: Illinois, 5 (*c*), re-enacted in 1913 and 1915, 8 (*c*). 1913: Wisconsin, 9, 5. 1915: Alaska, 1, G; Colorado, 54 (*a*); Hawaii, 60 (*g*); Indiana, 31; Nevada, 25; Vermont, 58 (*g*). See also California, 15 (*b*), 2, (7). The Alaska awards are stated simply as "for the loss of an ear: $240" and "for the loss of the nose: $480." As this award for an ear is less than is allowed for a great toe, it probably is not for the loss of hearing.

[3] Ball v. Wm. Hunt and Sons, 5 B. W. C. C. 459. Wm. T. Sullivan's Case, 218 Mass. 141; 105 N. E. 463. Joseph T. Duprey's Case, 219 Mass. 189; 106 N. E. 686.

ing the tasks of the employment. In Hawaii, indeed, and in Vermont the disfigurements to be compensated are only such as result in "diminished ability to obtain employment," in Indiana they are limited to such as "may impair the future usefulness or opportunities of the injured employee," and in Alaska they are mentioned in a schedule of partial disabilities. But in the other states, in Colorado, Illinois, Nevada, and Wisconsin, the compensations are authorized for permanent or for serious and permanent disfigurements, without any reference to diminished abilities or opportunities.[1] The fact that in all the states except Alaska and Illinois the awards are permitted, but not commanded, perhaps implies an expectation that they are not to be made except for disabilities of some sort or for other unusual conditions. But the facts remain that in Illinois they must be made, perhaps also in Alaska, and that in Colorado, Nevada, and Wisconsin they may be made when no disability attends or follows the injury.[2]

In nearly all of the states there are schedules of somewhat definite awards for specific maimings, or dismemberments. In much the greater number of these states the scheduled awards are to be made only for disabilities in connection with the maimings; so that the schedules are nothing more than very rough devices, sometimes very unjust, to spare those administering the laws the trouble of determining the degree and duration of the disabilities. But there are several states, Hawaii,

[1] In Nevada the section of the statute which establishes a "waiting period" (27) declares that "no compensation shall be paid under this act which does not incapacitate the employee for a period of at least seven days"; and in Alaska the corresponding provision is the same except that the period is two weeks (5). The courts must say whether these provisions apply to disfigurements.

[2] A temporary disability is very likely, but not always entirely certain, to attend the injury. In the Illinois statute it is quite clear that the allowances for disfigurement are in addition to the regular benefits on account of temporary disability; and, apparently, it is so in Colorado and Wisconsin also. In Indiana the allowances for disfigurements are exclusive, as they probably are in Alaska, Hawaii, Nevada, and Vermont.

Illinois, Indiana, Massachusetts, Montana, Oregon, Rhode Island, Texas, Wisconsin, and Wyoming, in which the scheduled awards are expressly for the "injuries" described,[1] without direct mention of disability. In three of these states, however, Massachusetts, Rhode Island, and Texas, the provisions of law for the waiting period withhold benefits from all injuries which do not incapacitate for at least certain specified minimum periods. There remain, then, only Hawaii, Illinois, Indiana, Montana, Oregon, Wisconsin, and Wyoming as states in which awards may be made for dismemberments without impairment of ability, whenever such dismemberments are physically possible.

Such very exceptional possibilities, however, scarcely merit serious attention. In all but the ten thousandth case benefits will be claimed and paid only for disability or death from injuries. Death is a simple event, requiring to be measured neither for degree nor for duration; and comparatively simple conditions for its compensation are laid down in all the states except in Oklahoma, where fatal injuries are not covered at all by the law.[2] In nearly half of the states there is no direct or indirect limitation of the time within which death must follow accident or injury, if compensation is to be had; and in these, consequently, any death, no matter how long delayed, will be basis for compensation if, conformably to the law, it is shown to have been due to the employment of the deceased. In others, fourteeen of them,[3] definite periods are fixed, within which death

[1] Hawaii, 14. Illinois, 8 (*e*). Indiana, 31. Massachusetts, II, 11. Montana, 16 (*i*). Oregon, 21 (*f*). Rhode Island, II, 12. Texas, I, 12. Wisconsin, 9, 5. Wyoming, 19 (*a*). Oregon and Wyoming do, in terms, provide the awards for disabilities; but both states define the disabilities as meaning the enumerated dismemberments.

[2] Article 6. The reason was a scruple as to constitutionality, the act being compulsory.

[3] Arizona, 72, 3. Colorado, 57. Connecticut, B, 9. Hawaii, 7; 60 (*c*). Indiana, 37. Louisiana, 8, 1 (*e*). Maryland, 35, 4. Montana, 16 (*h*). Nebraska, 52 (*b*). Ohio, 82. Pennsylvania, act. 338, sec. 301. Vermont, 10. West Virginia, 33. California, except for death preceded by continuous disability, 16 (*b*).

must occur, if compensation is to be payable, the terms varying from 26 weeks in West Virginia to 350 weeks in Nebraska.[1] In still other states a similar effect of limitation is found in provisions that no compensations shall be payable unless claimed within specified terms, as six months in Illinois, one year in New Jersey, and two years in Wisconsin.[2] Similar indirect limitations are found also in some of the states which have directly indicated limits, Colorado and Connecticut thus reducing their terms from two years to one.[3] In view of the possible difference of time between the accident and the injury or disability, it must be noted that some states date their periods of lawful notice and claim from the accident and some from the injury. Colorado and New Jersey use now one bound and now the other.

There can be but one motive for imposing such limitations, a realization of the difficulty of tracing reliably the causal connections when death is long delayed. Against this should weigh the fact that an interval between injury and death, however it may dull the pangs of grief, is likely to diminish rather than to increase the ability of dependents to endure the loss of their breadwinner and that, therefore, the longer the interval the more crushing the loss. If medical men declare it very difficult to connect a long delayed death with a cause of years before, the legislature must defer to their expert judgment. But the very wide variation

[1] West Virginia, 26 weeks. Arizona and Montana, 6 months. California and Louisiana, 1 year. Colorado, Connecticut, Maryland, Ohio, and Vermont, 2 years. Indiana and Pennsylvania, 300 weeks. Nebraska, 350 weeks. The Hawaiian law gives 6 months in one section, 7, and 2 years in another, 60 (c).

[2] Illinois, 24. New Jersey, 23. Wisconsin, 11. Iowa (9), Minnesota (19), and New Jersey (15) have further the identical provision that "unless knowledge be obtained, or notice given, within ninety days after the occurrence of the injury, no compensation shall be allowed." Here, however, the injury may be construed as the death and not as the accident or the original injury; indeed, in Iowa it is enacted expressly that injury includes death resulting from injury (17).

[3] Colorado, 62. Connecticut, B, 21. The courts may decide which of the conflicting provisions shall prevail.

in the lengths of the terms set in the several states, as well as the entire absence of limitations in nearly half of the states, prevents our believing that our legislators have been guided by established principles of medical jurisprudence.

Fortunately, fatal injuries in American industry are the exception. Increasingly definite and reliable reports to and from industrial commissions, made under workmen's compensation laws, are proving that the rough and indirect estimates of industrial fatalities which have been appearing for several years have gone beyond the sad facts. From 90,239 accidents reported to the Massachusetts industrial accident board for the year, 1912–13, only 545 deaths resulted.[1] In Washington the 48,321 accidents reported to the Industrial Insurance Commission from October 1, 1911, to September 30, 1914, caused only 923 deaths.[2] Among 52,853 claims presented to the Ohio Industrial Commission against the state fund from March 1, 1912, to September 1, 1914, only 266 were for fatal injuries.[3] Among the 41,200 cases settled under the workmen's compensation law by the Wisconsin Industrial Commission from July 1, 1914, to June 30, 1915, but an even 200 grew out of deaths.[4] In California, in the first six months of 1914, there were reported to the Industrial Accident Commission 26,958 accidents; and of these just one per cent, 269, were fatal.[5] In Nevada there were, indeed, 53 deaths from only 1,849 accidents reported from July 1, 1913, to December 31, 1914;[6] but in Texas there were only 81 deaths from the 18,888 accidents reported to the Indus-

[1] First annual report, p. 7.
[2] Third Annual Report, p. 93.
[3] Bulletin of the commission, January 1, 1915, p. 10.
[4] Fourth Annual Report, p. 41.
[5] Report for 1913 and January–June, 1914, p. 37.
[6] Report of Industrial Commission, p. 91.

trial Accident Board from September 1, 1913, to August 31, 1914.[1] As absolute figures, these are truly impressive: they mean a great loss to the states and to industry, and they mean great loss and great misery for the families of the deceased. But, if thrown together in a quite unscientific manner, they show but 2,337 deaths from 280,308 accidents. Fatal injuries, therefore, appear few, as they must appear of minor economic consequence, when brought into comparison with the non-fatal injuries of employment. If there are thousands killed at their work each year in the United States, there are hundreds of thousands injured. It is in the provision for non-fatal injuries, which cause only a more or less serious impairment of productive power and earning capacity, that the most difficult problems, and the greatest beneficence, of workmen's compensation may be seen.

In contrast with fatalities, disabilities vary greatly both in degree and in duration. And not all of them can be covered by any compensation law. Perhaps, it may be conceded that, ideally, all ought to be compensated. Certainly the burdens of them all must be carried, by somebody and in some way. But there is an irreducible minimum of labor and expense involved in the proper administration of any case, even the smallest and simplest; and it cannot be widsom to incur this labor and expense for very trifling disabilities. Perhaps it is not an unreasonable present compromise with the ideal, if industry, or the employer, bears the costs of curative treatment for all injuries, while injured workmen and their families endure the loss of earnings attending the least serious disabilities.

Disabilities might be pronounced little serious, and therefore negligible in a compensation law, either

[1] First Annual Report, pp. 3–5.

because they are very slight in degree or because they are of only brief duration. Probably the former criterion would be the more difficult of fair application. Certainly it has no real part in the theory of the American statutes.[1] In practice slight impairments of capacity are likely to be disregarded generally. Except under some system of piece wages, they will not reveal themselves promptly in the pay envelope; and, in any ordinary circumstances, inertia will prevent a great many of the slightly injured from claiming compensation. But, in the theory of the law, even the slightest impairment of capacity is just basis for an award. Nevada makes express provision for converting petty periodical payments into larger amounts for shortened terms;[2] and the California legislature of 1915 has fixed in the statute of that state the policy of the industrial accident commission by carrying the scale of awards down as low as 1 per cent of disability.[3]

On the other hand, it is the common practice to grant no benefits unless the injury results in a disability continuing through or beyond a specified term, the so-called "waiting period." There is no waiting period whatever in Oregon or in Washington.[4] There is none for disabilities which continue more than two weeks in Arizona,[5] for three weeks or more in Nevada,[6] for more than

[1] In the Washington statute (5) there is a declaration that "no compensation shall be payable out of the accident fund unless the loss of earning power shall exceed five per cent." As this provision is part of a subsection fixing awards for temporary total disabilities, a real meaning for it is not easy to find. The Industrial Insurance Commission has done its best with the puzzle by construing it to mean a loss of five per cent of the month's wages. But, in practice, the strange provision has been ignored; and the annual reports of the commission show awards for disabilities as low as half of 1 per cent. In Montana, too, workmen partially disabled can have no compensations if still able to earn as much as $10 a week — 16 (*c*).

[2] Sec. 25.

[3] Sec. 15 (*b*), 2 (5).

[4] Oregon, 21. Washington, 5.

[5] Expressly and unmistakably the provision applies only to total disabilities (72, 1); but the context and phrasing would rather imply a general application.

[6] 27.

four weeks in Wisconsin,[1] or for eight weeks or more in Alaska, Michigan, and Nebraska.[2] There is none for any permanent disabilities in Minnesota,[3] for permanent total disabilities in Illinois,[4] or for partial or permanent total disabilities in Wyoming.[5] Much the most common general term is two weeks, which is found in twenty-two of the states;[6] but the apparent extremes are one week, in seven states[7] and three weeks, in Colorado,[8] with Connecticut and Wyoming (for temporary total disabilities) at ten days.[9] The apparent meanings of the statutes, however, are modified in minor ways, some doubtless intended by the legislatures and some perhaps not intended. In some of the states the periods are dated with evident care from the time of disability;[10] but in more either the exact meaning is obscure and ambiguous or the period dates from the time of the injury or the accident. And experience already has shown that a delayed disability may nullify the stipulation of a waiting period dated from the time of injury.[11]

[1] 9, 2.

[2] Alaska, 5. Michigan, II, 3. Nebraska, 19.

[3] 17; 13 (*c*) — (*e*).

[4] 8 (*f*).

[5] In Wyoming partial and permanent total disabilities are compensated with lump sums, 19 (*a*) and (*b*).

[6] Alaska, 5. Arizona, 71. California, 15, (*b*). Hawaii, 13; 14. Indiana, 28. Iowa, 10 (*g*). Kansas, 1 (*a*); 11 (*b*) and (*c*). Louisiana, 8, 4. Maine, 9. Maryland (partial and temporary total), 48; 35, 1. Massachusetts, II, 4. Michigan, II, 3. Minnesota, 17. Montana, 16 (*g*). Nebraska, 19. New Hampshire, 3; 6, 2. New Jersey, 13. New York, 12. Oklahoma, art. 2, sec. 3. Pennsylvania, act 338, sec. 306 (*d*). Rhode Island, II, 4. Vermont, 15; 16.

[7] Illinois, 8 (*b*): one reading might make it six days. Maryland (permanent total), 35, 1. Nevada, 27. Ohio, 78. Texas, I, 7. West Virginia, 30. Wisconsin, 9, 2.

[8] 52.

[9] Connecticut, B, 8. Wyoming, 19 (*c*).

[10] So, apparently, in California; Colorado; Connecticut; Hawaii; Illinois (but see the subsection, 8 (*f*); Kansas; New York; Pennsylvania; Vermont; West Virginia; Wisconsin.

[11] A Massachusetts workman was injured February 10, but continued at work until March 22. The industrial accident board awarded compensation from March 23. But why not from February 25? The statute declares that "if incapacity extends beyond the period of two weeks, compensation shall begin on the fifteenth day after the injury."

Except, perhaps, in the schedules of awards, no detail of policy in workmen's compensation is debated more warmly than the waiting period. The larger elements of the problem are well known on all sides. It is a hardship for the average workman's family to lose altogether [1] the income of even a very few weeks; indeed, it is a hardship for most and a great hardship for many. The briefer disabilities are much the most numerous; [2] so that, notwithstanding the shortness of their terms, their inclusion would increase greatly the costs of compensation. There is a certain amount of expense involved in the administration of every case; and for the slightest and briefest disabilities this may amount to more than the award is worth. The opinion of American employers is against any present and great reduction of the waiting period; and a forced reduction might decrease the good spirit with which they have accepted

[1] The term, "waiting period," is not happily chosen. A period of waiting, of indefinite length, there must be in all normal cases, until after the claim is allowed. The question is whether payment even is to be recovered for the first days or weeks of disability. Usually, also, it is a question of total loss. Temporary partial disabilities, with no early time of total disability, are so rare that they scarcely figure in the accounts of the commissions: the first annual report of the Massachusetts Industrial Accident Board shows none at all among 89,694 injuries (page 8 and table xii).

[2] Data prove this everywhere. Reports of American commissions (California, 1913–14, p. 76; Washington, 1914, p. 104; Wisconsin, 1914–15, pp. 41, 45; Massachusetts, 1912–13, p. 8) and Dr. I. M. Rubinow's generalized conclusions (Standard Accident Table, p. 38) yield figures which may be thrown into the following table, altho the data are not closely comparable. The figures show the numbers of disabilities ending in the periods indicated at the left.

Period	California	Washington 1913	Washington 1914	Wisconsin	Massachusetts	Rubinow
1st week	8,711	1,681	1,816	13,435	68,586	37,225
2nd "	3,550	3,157	3,138	3,836		24,019
3rd "	1,629	2,113	2,175	2,473	10,568	12,145
4th "	1,041	1,365	1,262	1,363		7,002
5th "	711	1,139	1,164	998		4,452
6th "	441	658	555	559	6,638	2,693
7th "	322	439	469	593		1,747
8th "	217	281	277			1,178
9th "	157	330	349			921
10th "	76	160	150			586
11th "	74	138	157	457	2,355	444
12th "	59	100	91			355
13th "	37	131	225			285
Later	106	688	758	327	1,547	1,141

the compensation system. There are some observers who believe that the greater danger of malingering is for the short-term benefits.

There is no established and unquestioned standard for comparing these diverse elements; and nobody should be quick to affirm confidently just what is the best term for the waiting period in the United States. Perhaps the American states have chosen the wiser course in first fixing a rather long term, with the expectation of reducing it as experience may appear to warrant.[1] But our laws are so much less generous in this regard than the laws of most foreign countries that one cannot avoid a suspicion that we are too strict.[2] The considerations which have been mentioned as making for a waiting period in the United States are of practical weight with us; and those who urge its complete and prompt abolition should bear in mind that neither workmen's compensation nor any other device or policy can end quite all of the hardships which flow from industrial accidents. But, on the other hand, one should never forget that there are pains and woes in all these hundreds of thousands of injuries which the very nature of the situation fixes inexorably upon the injured and their families. Beyond what is truly necessary we should not fasten upon them also privation and a lowered standard of living with all their unhappy and lasting consequences. That would be not only cruel but

[1] In 1915 Connecticut reduced from two weeks to ten days; and Minnesota from two weeks to one, as well as abolishing altogether for permanent disabilities.

[2] There is no waiting period in Italy, Liechtenstein, Nuovo Leon, Peru, Portugal, Russia, Serbia, Spain, or Venezuela. Two days is the term in the Netherlands, and in Switzerland, three days in Austria, Cape of Good Hope, Germany, Hungary, Luxemburg, and Norway, four days in Greece, five days in France, six days in Finland, seven days in Belgium, the United Kingdom, Newfoundland, New Zealand, Ontario, Quebec, South Australia, Tasmania, and Transvaal, two weeks in Alberta, British Columbia, Manitoba, New South Wales, Nova Scotia, Queensland, Roumania, and West Australia, sixty days in Sweden, and thirteen weeks in Denmark (Bulletin no. 126, United States Bureau of Labor Statistics, pp. 133–135).

also uneconomical, practically and in the long run. Countries abroad and states within our own nation have found that a waiting period not longer than one week is quite practicable in every way and quite endurable for employers and for industry. The adoption of a uniform term of one week throughout the United States would mean a great relief for hundreds of thousands each year whose lives are at the best none too easy and bright.

American lawmakers, apparently, have assumed that injury or disability is always the instantaneous consequence of accident, if it is coming at all; and frequently they have made no appropriate provision for the tardy development of disability, such as may not merely disturb the arrangements for waiting periods [1] but even deprive the disabled altogether of benefits under the law. Except for one unimportant relation in Alaska,[2] there are no terms set directly, within which disabilities must have followed injury or accident, if they are to be compensated; but there are a great many indirect limitations of time, in the requirements that notices of injury and claims of compensation must be presented or that proceedings for the enforcement of rights must be started within certain terms.[3] In several of the states, Alaska, Nevada, New York, Ohio, Oregon, Washington, Wyoming, and possibly one or two more the requirements of notice, claim, and action are dated from the development of disability or the accrual of the right; and in Hawaii, Indiana, and Massachusetts there are no requirements which may not be waived for good reasons.

[1] See page 55, note 11.

[2] Sec. 2 — for an increase in the seriousness of a disability.

[3] In most of the states the requirements of notice of injury, and in some the requirements of claims of compensation, are not unconditional: they may be waived for good reasons, as the employer's actual knowledge or the absence of prejudice to him. But the requirements of proceedings to enforce rights are more rigid. It is to these that reference is made chiefly in the text.

But in a majority of the states there are provisions which, if enforced as they stand, must deprive an indeterminate number of persons of their benefits. The Illinois statute may serve as illustration.[1]

An examination of the rules for measuring the degree of disability belongs in a discussion of the schedules of awards rather than here. Here, however, it is relevant to take account of the principles by which the fact of disability is determined, whatever the degree of the disability may be. The test for disability is not incapacity to perform the operations of employment, but rather inability to earn. So the courts have held both in the United Kingdom and in this country, even though the statute refers to "incapacity for work."[2] Disability, therefore, arises not only from every variety of physical and mental injury which destroys or reduces the worker's ability to go through the tasks of his employment but from every injury or condition, such as disfigurement, which hinders his securing employment. It is not necessarily reflected in a realized reduction of earnings nor necessarily inconsistent with a continued receipt of full customary wages,[3] but may be constructive, or inferential, as reasonably certain to be realized in the future, if the physical efficiency of the worker in the ordinary pursuits of life has been impaired substantially.[4]

The disability of an injured worker may be proved or measured either in the same occupation in which he was

[1] "No proceedings for compensation under this act shall be maintained unless claim for compensation has been made within six months after the accident, or in the event that payments have been made under the provisions of this act, unless written claim for compensation has been made within six months after such payments have ceased" (24).

[2] Ball v. Wm. Hunt and Sons, 5 B. W. C. C. 459. International Harvester Co. v. Industrial Commission et al., 157 Wisc. 167; 147 N. W. 53. Gorrell v. Battelle, 93 Kans. 370; 144 Pac. 244. Wm. T. Sullivan's Case, 218 Mass. 141; 105 N. E. 463. Joseph T. Duprey's Case, 219 Mass. 189; 106 N. E. 686.

[3] De Zeng Standard Co. v. Pressey, 86 N. J. L. 469; 92 Atl. 278. Thomas Septimo's Case, 219 Mass. 430; 107 N. E. 63.

[4] Burbage v. Lee et al., 93 Atl. 859.

engaged when injured or in some other occupation. Perhaps neither standard alone is wholly satisfactory. If a workman is disqualified for continuing at his customary employment, for a time at least he has suffered the disability which it is the purpose of compensation laws to relieve. But his disability is at an end or is reduced as soon as he has been restored to his former position and earnings or has found some other gainful occupation. It is, therefore, not an unreasonable principle that the occurrence of the disability should be proved in the regular employment of the injured, but that its continuance and degree should be ascertained by proper reference to any other suitable occupation. Substantially this is the principle expressly embodied, more or less consistently, in a few of the statutes; [1] but in a larger number of states the provisions of the sections are incapable of literal and humane application, since they state or imply, more or less generally and more or less clearly, that disability means inability to work in any suitable, or gainful or reasonable occupation.[2] And in still more of the states, fifteen in fact, there is no statutory indication as to how disability is to be proved or measured.[3] Michigan is unique in that she both proves and measures disability always by reference to the employment in which the injury was received.[4] The

[1] Arizona, 71 and 72, 1 and 2. Connecticut, B, 8 and 12. Illinois, 8 (*d*). Kansas, 1 (*a*) and 12 (*f*).

[2] Colorado, 4 (*i*). Hawaii, 13; 14. Indiana (?), 29; 30; 32. Louisiana, 8, 1. Maryland, 35, 4 and 3. New Hampshire, 6, 2. New York, 15, 4 and 3. Oklahoma, art. 2, sec. 6, 4 and 3. Oregon, 21 (*b*) and (*d*). Vermont, 15; 16. Washington, 5 (*b*) and (*d*). Wisconsin (?), 10, 1 (*d*), 2. Wyoming, 19 (*c*).

[3] Alaska, 1; 5. California (?), 15; but see 18. Iowa, 10. Maine, 9; 14; 15. Massachusetts, II, 9 and 10. Minnesota, 13. Montana, 16, (*a*) — (*c*). Nebraska, 21. Nevada, 25. New Jersey, 11. Ohio, 81. Pennsylvania, act 338, sec. 306 (*a*) — (*c*). Rhode Island, II, 10 and 11. Texas, I, 10 and 11. West Virginia, 31.

[4] II, 11. This strange provision was copied from the Wisconsin act of 1911. Wisconsin rejected it after the Supreme Court had allowed a shingle sawyer compensation for total disability on account of the loss of his left thumb and index finger (Mellen Lumber Co. v. Industrial Commission et al., 154 Wisc. 114; 142 N. W. 187).

misfortune of loose drafting in the statutes is at its minimum here, where commissioners and courts nearly always can make easy, just, and satisfactory interpretations. But looseness of expression is always unfortunate; and it should have been as easy to find apt words in the other states as in Arizona, Connecticut, Illinois, and Kansas.

American advocates of progressive public policies have congratulated their country upon the rapid acceptance of workmen's compensation in state after state. Now nearly three-fourths of the population and more than three-fourths of the industries are within the compensation area. But it would be a great error to infer that three-fourths of those who suffer in this country through industrial injuries receive compensation. In none of the thirty-three compensation states are all occupations brought within the field of the law. Some of the largest and the most dangerous are left out, often or generally. So it is with agriculture, which is dangerous and very large, and with interstate railroading, which is large and very dangerous. Then there are casual labor, domestic service, outwork, employment not for profit, employment in mercantile, professional, and personal occupations, clerical work, some forms of public service, and employment, at whatever work, in small numbers together, all omitted here or there. Not very much more than half of all the employees in the compensation states can be affected in any manner by the laws.

Moreover, in only eight or nine [1] of the thirty-three states does the law apply regardless of the wishes of employer and employee. In the others its acceptance is for their election, under the well known pressure of the

[1] California, Hawaii, Maryland, New York, Ohio, Oklahoma, Washington, Wyoming. The Arizona law is nominally compulsory; but either employer or workman may "disaffirm" it (78).

optional acts. And the fullness of elections varies greatly from one to another of the optional states.[1] Due reckoning must be made also of the few who fail of compensation because their injuries were not accidental or did not develop quickly into disabilities and of the many thousands who are cut off because their disabilities do not continue more than one, two, or three weeks. Not three-fourths of those who suffer through industrial injuries in the United States receive compensation. The true figure is nearer one-fourth. It may be less for the whole country, as certainly it is less for some of the so-called compensation states.

Very far, then, from its ideal is the present compensation legislation of the American states. Very imperfect it is, and in other relations as well as in its scope. But it does not follow that great changes ought to be made at once. As Roman Horace knew, nothing is perfect in every part. And so it must be as long as to see a perfect man is beyond hope. Inconsiderately to rush toward the ideal is visionary in the evil sense of the term and is scarcely less unwise and dangerous than inert contentment with known and mendable imperfections. It is like hurriedly holding a bee line toward the nearest bank of a morass in which one may find himself. The wiser policy and the surer way of early and permanent advance are through a cautious and conservative radi-

[1] The Massachusetts Industrial Accident Board in its first annual report (p. 23) estimates at about 600,000 the employees covered by the system, while 200,000 more who were eligible were not covered; and in 1910 there were 1,531,068 persons of ten years and more, employees and others, in gainful occupations within the state. In Texas there were 109,735 employees covered in 1913–14 (Annual Report, p. 3), as against 1,556,866 persons in gainful occupations in 1910. The Wisconsin Industrial Commission reports "more than 250,000" under the protection of the law, June 30, 1915; while those in gainful occupations in 1910 were 892,412. The Nevada Industrial Commission up to December 31, 1914, gives 10,709 as the average number within the protection of the act (Report, p. 8), while those gainfully occupied in 1910 were 44,910. September 1, 1914, the number under the protection of the system in New Hampshire fell from 23,078 to 18,238 (10th Biennial Report of the Bureau of Labor, p. 12), altho the number in gainful occupations in 1910 was 191,703. Not very far from two-thirds of those in gainful occupations, agriculture included, are employees.

calism, which holds inexorably to the ideal as a constant, though distant, goal but is content to work toward it stage by stage and with a sane recognition of present obstacles and hindrances. And the first part of such a wise policy is to take sober and unsparing account of the differences between the actual and the ideal. It would be most unfortunate were we to fall into a belief that our workmen's compensation legislation is now near its ideal.

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WESTERLO, NEW YORK.

FRENCH MONEY, BANKING, AND FINANCE DURING THE GREAT WAR

SUMMARY

It is of great interest to put before the reader the elements of French wealth, to inquire into the French monetary and banking system and its working during the great war, to examine our public finance, and to explain how the government was able to raise the billions wanted for military and naval expenditure. A comparison with what happened forty-five years ago, at the time of the Franco-Prussian war of 1870–71, will form the conclusion of the present study.

I. The Wealth of France

France has one of the richest soils in the world, and, on a comparatively small space, enjoys many kinds of various crops, with different climates in the north and the south, everywhere temperate and most suitable to the best development of vital energies. The value of France's grain crops of every description in 1912 was 4,400 millions of francs; of potatoes, 1,100; of hay, 1,350; the whole agricultural yearly product being about 11 billions.

The production of pig-iron has been 5 millions of tons; of steel, 4 millions; of coal, 41 millions.

As a rule, France's wheat production is about 10 per cent under her average consumption; beyond this she needs no food imports, or rather her imports of some products are made good by exports of other sorts for an equal value. The wheat crop of 1914, amounting to about 87 millions of metric cwt., was good and has been collected successfully, in spite of the fact that all the valid men were under the colors from the 1st of August, and women, children, and elderly peasants had to work hard as substitutes for their absent husbands, fathers, and sons. So it is this year (1915): the crops are good, except in the southern part of the country, where they have been damaged by rain; and every available force has been contributory to the harvest work. Meat has to be imported to some extent. Enormous quantities of it are daily supplied to the soldiers, and frozen meat will have to be imported in order to save the French cattle and to keep the herds unimpaired. Vineyards have been suffering to a certain extent from an abnormal waterfall, but the deficiency will be easily imported from Algeria. As a rule France could live on what she produces: this fact gives a peculiar strength to a country.

Silk is very important in French economy. France is a small producer of the raw material, but she has for centuries been the foremost in the silk industry. The so-called *condition des soies*, *i. e.*, the exchanges of silk, are more important in Lyons than in any other place: 10,810 tons in 1913, against 10,497 in Italy, 3,483 in Japan, 1,365 in the United States.

The value of the land, at the end of 1912, was 62 billions; the value of the buildings, 65 billions. The value of the securities held by the people is considered to be

about 100 billions, out of which 40 are foreign bonds or shares. Deducting the debts and adding the estimated value of furniture of every kind, the total wealth of the country is considered to be about 200 billions of francs.

The foreign trade in 1912 was as follows (in millions of francs):

	General trade	Special trade
Imports	10,293	8,230
Exports	8,825	6,712
Excess of imports	1,468	1,528

Under the name of general trade are listed all the goods which arrive either by sea or by terrestrian borders, and all the goods shipped by the same way. The special trade includes only the merchandise which is delivered to consumers residing in France and the French products exported.

France has a large commercial fleet numbering 17,000 vessels, against 20,000 in the United Kingdom; but the tonnage is much smaller, being only 1,519,000 against 11,879,000.

A very important feature of the French peasantry and middle class is the habitual thrift. It is well known that most of them do not spend their yearly income, however mean it may be, and put aside small or large sums, which they generally invest in French or foreign securities: this is one of the factors that have made France a creditor country to such a large extent. The ownership by Frenchmen of foreign bonds and shares makes them receive yearly from all parts of the world considerable sums of money, which, added to the amounts spent in Paris and other French resorts by foreigners, keep the exchanges in normal times always favorable to France.

Whatever the public debt will turn out to be after the war, every cent on it will be paid.

II. Money

France being, as a rule, a creditor country, receiving in an average year more from foreigners than she has to pay abroad, has not experienced any difficulty in keeping within its borders a considerable amount of gold. From careful calculations, it is believed that in 1914 this amount was 7 billions francs, of which 4 billions were in the vaults of the Bank of France and 3 in the hands of private people. Practically, since the war broke out, gold disappeared from the circulation. It has been replaced by paper, five franc silver coins, and subsidiary tokens made of silver. Copper and nickel continue as before to be used for petty payments. At the beginning of the war gold had been hoarded in large quantities by many Frenchmen, who, by an ancestral tradition, are fond of metallic money and like always to put it aside. Lately a movement has begun, of which the author of this article is proud to have been the initiator, and which brings large quantities from private vaults to the Bank of France, in exchange of notes. People have realized that their gold lying idle in their safe-boxes is of no advantage to them (as they do not use it and hoard it without any definite purpose), and is on the contrary very useful to the bank, whose assets it increases, giving additional support for the issue of notes. Everybody, from the big concerns down to the smallest investor and modest citizen, has understood his duty and fulfils it with the vivid patriotism which is nowadays the finest feature of France. Many hundred million francs of gold are now pouring into the reservoir of the bank. The gold in hand, in spite of the fact that the bank has handed over to the Bank of England 500 million francs, has increased about half a billion since the beginning of the war.

During the same period, the amount of silver coins held has decreased from 700 to 350 millions of francs, which is also an interesting feature of the balance sheet. These five franc pieces, so called *écus*, are not only of French coinage, but also, in consequence of the Latin Union, Belgian, Italian, Swiss, and Greek. In August, 1914, there was a great demand for specie in France as well as in other parts of Europe: the Bank of France released about half of her silver stock, which was very wise. She might as well have let the whole go, as gold is the only firm basis for the notes. The German Reichsbank took advantage of the same circumstances and let the whole of the thalers be taken by the public. In time of war, people are fond of every kind of hard money, and where they do not get gold, they are satisfied with silver.

Not only 5 franc coins at 900/1000 fine, but also pieces of 2, 1, and ½ franc at 835/1000 fineness, have been eagerly sought by the public, so that, in some remote parts of the country, *e. g.*, in the southwest, local authorities, mainly chambers of commerce, have been led to issue one franc and half a franc notes, in order to provide the circulation with sufficient means. Nickel pieces of 25 centimes have been in demand for account of manufacturers who wanted them for industrial use. German agents are said to have been very active in picking them up in northern France and Belgium.

III. The Bank of France

Banking plays a most conspicuous part in the monetary system of a country engaged in war. Usually the monetary stock cannot be increased at once; on the contrary it is threatened with several dangers, of which the effect is likely to be a diminution of that stock rather

than an increase. So the printing press is at work, and either the banks of issue or the Treasury, or both, are busy engraving billions of notes. France has no more escaped this necessity than the other belligerents; but she has done it in a simple straightforward way, which contrasts favorably with the tortuous and dark ways by which some of her enemies have tried to conceal the real state of things.

Let the reader recall the organization of the Bank of France. There is no legal relation between the amount of notes issued and any asset, whether cash or discounted drafts. The only principle laid down by the law is that the bank, which enjoys since 1849 a full monopoly for the issue of notes in the whole of France, is bound to manage her affairs in such a way that she ought to be always able to redeem her notes in cash.

She is more free in her policy than any other bank of issue; a very large power is in the hands of her directors, elected by the shareholders, and her governor, nominated by the government. In fact the brake put on any tendency to increase unduly the volume of the notes is ordinarily the obligation incumbent on the bank to repay them in cash. But in times of emergency, the state as a rule relieves her from that duty, and law makes the notes legal tender, not only between citizens but also regarding the bank. The government expects the bank to advance money to it, creating notes for that purpose; as the notes are pledged by a debt which is not repayable before the end of the war, the bank would not be able to collect gold enough to have these fresh notes redeemed at once, should they be presented at her counters. As no distinction is made between them and those which are created for commercial purposes, the unavoidable outcome is that legal tender quality must be given by law to all the notes.

Now let us see what is the amount of the advances made up to date by the Bank of France to the government. When the privilege of the bank was renewed in 1897 for twenty-three years (to December 31, 1920) a condition of this renewal was that she agreed to advance permanently to the state 200 millions of francs, bearing no interest and not repayable before the expiration of the privilege. But this is only a trifle as compared with the huge sums loaned since the beginning of the war. By a convention dated 1911, the bank was bound to lend 2,900 millions at the outbreak of war; this amount was raised to 6,000 millions in September, 1914, and to 9,000 millions in May, 1915. This of course is the maximum limit: at the present moment (September, 1915) the government has made use of its borrowing power from the bank only to the extent of about 7,000 millions of francs. This figure appears in the weekly balance sheet of the bank, which is regularly published.

In order to enable the bank to create the notes required, the maximum of circulation, which since 1870 has been fixed by law, has been constantly raised. Following are the dates at which the maximum has been increased:

Date	Millions of francs	Date	Millions of francs
August 12, 1870	1,800	November 17, 1897	5,000
August 14, 1870	2,400	February 9, 1906	5,800
December 29, 1871	2,800	December 29, 1911	6,800
July 15, 1872	3,200	August 5, 1914	9,000
January 30, 1884	3,500	September, 1914	12,000
January 25, 1893	4,000	May 11, 1915	15,000

Until the beginning of the war, the increase of the limit had been rendered necessary by the development of discount and loan business and also by the growing of the gold stock, which at the beginning of the twentieth century was nearly equal to the notes outstanding. But since the outbreak of the present war, the raising of the

limit has been exclusively due to the wants of the state. The bills discounted have not been increasing, as the ordinary business is rather at a standstill. A good part of the bills which had been moratored, *i. e.*, of which the drawers had been allowed to postpone the payment, have gradually been paid, so that the whole of the bills discounted still in the assets of the bank does not amount to much more than 2,000 millions of francs. The loans on securities are at about the same figure as they were one year ago, so that the main moves in the position of the Bank of France may be summarized in the following manner. The bills discounted have decreased, the loans remained unchanged, the government debt has grown regularly and is likely to do so, until the issue of bonds to be subscribed by the public will enable the state to repay to the bank the loans made to it. The total of the gold in hand had, till lately, remained about unchanged since the beginning of the war. As already explained, a marked improvement has now taken place and several hundred millions of francs have poured into the vaults of the bank. This fact is due to a remarkable move of the public. Citizens understood that the hoarding of metal by private people which, in time of peace, is of no good to them, injures the government's credit in war times; since for the extension of the note circulation, it then becomes imperative to have as much specie as possible as a basis for the paper. As soon as this idea was spread over the country, coins of 20 and 10 francs, also the old and rare coins of 40, 50, 100 francs, kept in many families as a kind of venerable relic coming from the ancestors, were eagerly brought by their owners to the bank-counters or to the post-offices, to be exchanged against banknotes. Week by week the bullion account of the bank was swollen, in spite of the fact that the bank had to export large

quantities, on account of the purchases made for military purposes both in the United Kingdom and in the United States. Once more the French nation has with admirable unanimity understood her duty and done it in a quick and intelligent way.

The following table indicates the main changes which took place in the balance sheet of the Bank of France between 30th July, 1914 and 26th August, 1915 (in millions of francs).

Assets	30/7/1914	26/8/1915
Bills discounted	2,444	2,335
Loans on securities ..	758	587
Silver currency.....	625	367
Gold coins and bullion	4,141	4,266
Government debt....	200	6,500
Treasury bills discounted (against loans to allies)	...	460

Liabilities	30/7/1914	26/8/1915
Notes issued.....	6,683	12.950
Private deposits	947	2.462

The main feature is the increase in circulation, which has nearly doubled, for the reasons just explained, and in deposits, which have nearly trebled. Many people, in times of emergency, trust to the Bank of France more than to any other bank, and keep as much as possible of their money with her.

IV. Private and Savings Banks

In order to get a full view of the banking situation, one has to consider not solely the position of the Bank of France. Besides this great institution, which is half of private character, half of public, there are joint stocks banks, which play a prominent part in French finance. They are not tied together like the associated banks of New York; they are not subject to any legal rules regarding their deposits and their reserves. Nevertheless they hold a good deal of the private depositors' moneys, and their action in the money market is important.

They do a large part of the discounting business of the country. In ordinary times many customers bring their bills to these banks and not to the Bank of France, which is the " bank of banks " and generally rediscounts only when the other banks want to turn their portfolio of bills into cash. The aggregate Paris banks, often called " établissements de crédit," several of which have branches scattered all over France, have several billions of francs deposits, and use a great part of them in loans and discounts. The war made itself felt very strongly in their position; it reduced the volume of their business: first because, generally speaking, every trade, except some specialities, was contracted on account of the mobilization and the invasion of a part of the territory; secondly, because the directors wanted to make their assets as liquid as possible and to avoid any new undertakings.

This appears clearly from the comparison between the figures of the balance sheet of the main French banks at dates before the war and after. We quote underneath the *Crédit Lyonnais*, the *Société Générale*, the *Comptoir d'Escompte*, the *Crédit Industriel*, the *Crédit Mobilier*. Each of them with one exception has now a much larger amount of cash in hand than twenty months ago, whereas their liabilities to depositors, have largely diminished. It appears that under present conditions the management of these big concerns is more prudent than ever and that they wish to be prepared for any emergency. The figures are in millions of francs.

CRÉDIT LYONNAIS

Assets	30/6/1914	31/5/1915
Cash in hand or with other banks	231	678
Bills discounted	1,648	901
Loans on securities	356	262
Current account	714	401

Liabilities	30/6/1914	31/5/1915
Deposits	965	648
Other creditors	1,416	1,033
Acceptances	117	15

SOCIÉTÉ GÉNÉRALE

Assets	31/12/1913	31/12/1914	*Liabilities*	31/12/1913	31/12/1914
Cash in hand or with other banks	173	102	Deposits	673	457
Bills discounted	889	277	Other creditors	1,118	624
Loans on securities	447	318	Acceptances	176	102
Current accounts	561	608			

COMPTOIR D'ESCOMPTE

Assets	31/12/1913	31/12/1914	*Liabilities*	31/12/1913	31/12/1914
Cash in hand or with other banks	124	386	Deposits	605	482
Bills discounted	1,004	356	Other creditors	668	507
Loans on securities	201	174	Acceptances	175	32
Current accounts	166	179			

CRÉDIT INDUSTRIEL

Assets	31/12/1913	Aug. 1915	*Liabilities*	31/12/1913	Aug. 1915
Cash in hand or with other banks	20	59	Deposits	117	91
Bills discounted	142	49	Other creditors	116	79
Loans on securities	59	46	Acceptances	25	23
Current accounts	26	34			

CRÉDIT MOBILIER FRANÇAIS

Assets	June, 1914	June, 1915	*Liabilities*	June, 1914	June, 1915
Cash in hand or with other banks	27	39	Deposits	30	18
Bills discounted	51	10	Other creditors	58	43
Loans on securities	7	11	Acceptances	17	nil
Current accounts	49	46			

Besides these five there are a number of other *établissements de crédit*, both in Paris and in the provinces, which together have further billions of deposits. There are also the savings banks (*caisses d'épargne*) which are not joint stock (*sociétés par actions*) but corporations half official in character, subject to rules and regulations by the government. They have to use their deposits either by purchasing national bonds or by depositing them with the *Caisse de dépôts et de consignations*, an official establishment where many moneys from different sources are concentrated. Following is the last

balance sheet published by this *Caisse de dépôts et de consignations*, 31st December, 1913:

(*millions of francs*)

Assets		*Liabilities*	
Cash and bills receivable	1	Due to depositors (judicial)	374
French bonds, railroad debentures (moneys deposited)	354	Due to savings banks	4,110
French bonds, railroad debentures (moneys belonging to friendly societies)	339	Due to friendly societies	446
French bonds and securities belonging to reserves of savings banks	230	Surplus and guarantee fund belonging to savings banks	310
French bonds and sundry securities (for account of savings banks)	4,018	Sundry depositors	228
Loans	4	Pensions account (retraites ouvrières et paysannes)	8
Loans to department, municipalities, public corporations	119	Due to public insurance institutions and savings banks (current account)	108
Current accounts of public Treasury and Bank of France	555	Due to sundry agents	4
		Reserve	28
		Profit	4
	5,620		5,620

The above balance sheet shows clearly the working of the Caisse. It is above all the bank of the savings banks (*caisses d'épargne*) and friendly societies (*sociétés de secours mutuels*), which have to deposit all their moneys with it: out of the 5,620 millions francs liabilities, 4,866 were from this source. The Caisse gets the money and invests in securities which are mainly government securities, — 3 per cent rentes perpetual and redeemable, Treasury bills, Treasury bonds, state railroad debentures, private railroad debentures, debentures of the *Crédit foncier de France*, the official mortgage bank. The moneys which have not been invested in securities are advanced to the state and to departments, municipalities, public corporations. It is necessary to take into account the figures of this institution when one has to draw a complete statement of banking deposits in France, when compared with other countries, like the United States. In this latter country all the deposits are in the hands of banks. The only point which in America

presents some resemblance with French organization, is the postal savings organization, by which the post offices issue to depositors United States 2½ per cent bonds. In France the depositors may also apply for government bonds, but no special issue is made for them: the bonds are simply bought in the market. Whenever an individual deposit rises above 1,500 francs, the surplus is automatically used for the buying of state bonds.

Besides the private savings banks, France has also the *Caisse nationale d'épargne*, which receives deposits and pays interest to depositors. It is managed through the post offices all over the country. The balance of deposits on the 31st December, 1913, was 1,818 millions of francs; it has doubled within the fifteen years, 1898–1913. There were 6,400 accounts opened, which means an average deposit of 283 francs per head.

Adding the deposits in private savings banks and in the *Caisse nationale d'épargne*, we find that the total savings deposits at the end of 1913 were nearly six billions of francs.

V. Foreign Exchange

The matter of foreign exchange has been much talked of since the beginning of the war and deserves careful examination. It has been under two entirely different influences and has gone into opposite directions a year ago and at present.

The first effect of the crisis which burst like a thunderbolt at the end of July, 1914, was to induce people to collect as much of liquid assets as they could. As a rule, they were wholly unprepared for the emergency. They realized at once that the fighting would be long and hard, and they wanted to collect cash on hand to provide for their living during the coming trials. As they

could not sell their French securities, the stock exchange being closed, they fell back upon their foreign investments, of which French capitalists own something like 30 or 40 billions of francs, and tried to secure money from them. At the same time they drew back the credit balances which they had opened with their outside bankers, especially in London and New York. This action taken simultaneously by many customers brought naturally a very sharp fall in the value of pounds sterling and dollars on the French market, as everybody wanted to sell whatever quantity of these they had at their disposal in England or the States, disregarding any loss in exchange. This was the reason for the almost incredible quotations which were experienced during the summer and the fall of 1914, when the English sovereign, containing 25 fr. 22 of gold, was sold as low as 24 fr. 50 and the American dollar containing 5 fr. 18 of gold came down to 4 fr. 70. This movement was intensified by the English and American travelers who, having been surprised by the declaration of war, wanted to sell at any price their checks on home bankers, in order to get continental money and clear up their accounts before sailing. At the same time the United States had a large indebtedness towards Europe, which was another reason for the depreciation of the dollar.

This exchange panic — for no other name can describe a state of things during which people sold checks payable in gold at something like 7 per cent under their par value — lasted for a few weeks. Then a quieter view of the situation was taken; the Marne victory restored confidence in France, and the foreign exchanges, especially the English and American, went up steadily. But for many weeks they stood much under parity, on account of the continuous calling in of their balances through French investors. It was not until the close of

1914 that pounds sterling and dollars were at par, *i. e.*, 25.22 and 5.18.

Then two other factors came in and made themselves violently felt. I will consider the relations between France and the States. French exports diminished considerably and fell by more than one-half compared with the figures before the war. At the same time French imports from America rose by high amounts, as supplies of all sorts were freely sold to the Government. For these reasons hundreds of millions of francs, say billions, had to be transferred from Paris to New York, and this brought a constant rise of the dollar, which was soon quoted above par and which has been brought to the present high level of 6 francs, which means 16 per cent premium. At the same time, the expenses of American travelers in France were much reduced, so that another way of compensating the French debts was taken away, and the want of American funds was the more felt in Paris.

Of course this is not a lasting influence. The present high level of exchange is a momentary phenomenon. Nevertheless it handicaps the trade between the two countries, as it means a heavy additional burden for French buyers. A loan granted by American capitalists to France would equally serve the interests of both countries.

VI. Public Finance

Public finance is a most important part of war, especially in a war like the present, which involves the use of every sinew of the nation, which takes every valid man away from his home and employs him in the army or in the manufactures of arms, guns, ammunition. Roughly speaking, the daily expenses, which at the start were something like 35 millions of francs per day, have now

nearly doubled and may be estimated at 60 millions; which means 22 billions per year, 5 billions of dollars, a sum never heard of before. From the speech delivered by M. Ribot in the House of Deputies on the 25th June, 1915, it appears that the monthly war expenditure was 1,340 millions per month in the last part of 1914; it rose towards the middle of 1915 to 1,870 millions francs per month.

The ordinary receipts of the government have been suffering from the war. During the first six months of 1915, the so-called indirect taxes were 40 per cent less than in the same period of 1914. The direct taxes have kept in proportion a higher level, as they are assessed not upon real income but upon the so-called exterior signs of wealth, which have suffered no change since the declaration of war. They receded only 30 per cent below the sum which they ought to have brought in, according to the time elapsed since the beginning of the year. These direct taxes, as a rule, are payable in monthly instalments.

In time of peace, the French annual expenditure came already near to 6 billions francs, which was considered extremely high, and was due partly to military and naval establishments, partly to an enormous increase of civil service and of the so-called social legislation, such as old-age pensions, assistance of every kind, state monopolies, and the like. The public expenses had been growing lately at a very quick pace: they had nearly doubled since the end of the nineteenth century, and many criticisms had been directed towards the way in which they had been inflated in nearly every direction. Complaints were also frequent that, in peace time, the public debt had not been reduced and that it stood still in the books for more than 30 billions of francs, besides a heavy charge from civil and military pensions.

In spite of this, a new loan of 800 millions had been issued just before the outbreak of the war, on the 7th of July, 1914. But only partial instalments had been paid on the scrip, and this induced the minister of finance to have these 3½ bonds later exchanged against 5 per cents issued in the winter of 1915.

How did the Minister, M. Ribot, provide for the expenditure which was covered only to a small extent by the ordinary receipts? It was difficult to assess new taxes, the more so as some of the richest departments were still in the hands of the Germans and it would not have been possible to collect them on the whole of the territory. So the money had to be borrowed, and this was done under three different headings. First, as explained already, the Bank of France advanced over 6 billions of francs. This is done at a very low rate, 1 per cent per annum, which will be raised to 3 per cent after peace. Secondly, there have been issued Treasury bills, so-called *bons de la défense nationale*, which bear 4 per cent interest when issued at three months date, 5 per cent when for six months or one year. Of these something like 7 billions are outstanding at present. Thirdly, there have been created 5 per cent *obligations de la défense nationale*, which are repayable at par at earliest in 1925, at latest in 1928; sold at 96.50. If repaid in 1925, this would mean a return of 5.68 per cent. Some 2 billions of these have been issued. All this means 15 billions obtained by the Treasury through the three different means. We may still add 1,500 millions advanced by the Exchequer of the United Kingdom against 500 millions gold sent from France to England.

It is probable that before the end of 1915, a consolidated loan will be issued, *i. e.*, either perpetual rentes or bonds repayable within a period say of twenty or thirty

years. All this will mean a heavy burden on France. But nobody ought to be nervous about her perfect willingness and ability to meet all her obligations. One must never forget that France has a vast supply of resources on her soil and in her inhabitants.

Apprehensions seem to have been expressed in some quarters that this growing debt might imperil the contributive strength of the country. Mr. Arthur Richmond Marsh, in the *Economic World*, wisely explained these fears to be unreasonable. The high rate of interest at which France, like the other belligerent countries, is now borrowing does not indicate any weakening of her credit. But the general conditions of the monetary market being changed by war, she has to undergo the new rate of interest and to pay a higher figure than in time of peace. Just before the war, in July, 1914, she issued a 3½ per cent rente; now she has to pay 5 per cent; just as England, whose credit was on a 3 per cent basis, has now to pay 4½. At present France is offering to investors 5 per cent bonds at 96½. In 1871, she offered 5 per cent rentes at 82½; a few years later these 5 per cent rose to 128; and they were quickly paid off and replaced within a few years by 4½, afterwards 3½, finally 3 per cent rentes. The 3 per cent bonds, towards the end of the nineteenth century, were quoted much above par, up to 106. Did not the United States, in a similar way, issue during the civil war, 6 per cent bonds, and thirty years later borrow at 3 per cent? The creditors of nations which have always been conspicuous in financial and economical strength need not have the least fear regarding the exact fulfilment of their obligations. Nothing, under the conditions brought about by the war, implies the slightest deterioration of the credit of France. Nor must the movement of international exchange against France be taken as an indication of

impaired credit. All that it signifies is that there is a temporary partial interruption on her part of the production of the articles and the commodities which she ordinarily sends to the countries from which she is buying. After peace is concluded, exchange will return to its normal level, and the dollar will cease to be worth more than 5.18 frs., *i. e.*, exactly its gold content.

Some people have begun to study the main lines of the coming budgets. Without imposing any new taxes, the French government could raise easily 1,200 millions yearly by increasing some of the existing taxes. The following scheme was drawn up by the author of the present article in January last:

	Millions of francs
Ten per cent more on so-called direct taxes	63
Ten per cent on registration duties	80
Ten per cent on stamp duties	22
Ten per cent on colonial imported goods	15
Ten per cent on indirect taxes	85
Ten per cent on tobacco monopoly	53
Abolishment of the privilege of so-called *bouilleurs de cru* (landowners distilling their own fruit)	100
Tax on lighting	20
Doubling the tax on the so-called hygienic drinks (wine, beer)	83
Doubling the tax on spirits	200
Doubling tax on passengers' tickets, 1st and 2d class	30
Giving up the state railway to a private company	60
Retaining for the Treasury the tax on totalisators (heretofore assigned to charities)	40
Retaining for the Treasury the annual taxes paid by the Bank of France (heretofore devoted to rural credit)	15
Extension of the concession of the railroads	130
Tax of ¼ of a centime per ton-kilometer on goods carried on the canals owned by the state	15
	10,11

This gives an idea of what can be done in France in the way of collecting the fresh moneys wanted for the interest of the heavy loans which will have to be raised.

An important part of this scheme has already been endorsed by the Minister of Finance, M. Ribot, who laid before Parliament, in August, 1915, a draft regulating the alcohol duties in the way indicated above, *i. e.*, suppressing the privilege of landowners and doubling the tax on spirits. Another important part of the scheme is that regarding the railroads. All these belong to the state; but four-fifths of them are leased to private companies which have to surrender about 32,000 kilometers of track, free of every debt and charge, about the middle of the century, between 1948 and 1960. At that time the government will inherit this magnificent property, estimated about 20 billions of francs, which is a most valuable asset. If the state were ready to grant a longer lease, say for twenty or thirty years, it would get immediately from the lessees a much larger income, which would increase its yearly resources. The giving up of the part of the railroads which are presently worked by the state officials to a private company would also mean a sure gain for public finance, as the working expenses of these lines have tremendously swollen since they have been in public hands. The levying of a very light tax on internal navigation would be only fair, as there is no good reason for giving free use of these waterways, whereas every carrier has to pay for the use of railroads.

VII. Comparison With 1870–71

It is natural to compare the present state of things with that of 1870–71, the last great crisis which overcame France and which was also determined by a German attack upon an unprepared country. But the number of men in the field, the power of the engines used on earth, on and under sea, and in the air, has so

tremendously grown that there is little resemblance between the two cases. In 1869 the annual expenditure of France was something like 1¾ billions; in 1913 it was nearly 6 billions. The advances made forty-five years ago by the Bank of France amounted at the utmost to 1,800 millions; now they have already reached the figure of 6,800 millions. In 1870, 1871, and 1872 France borrowed about 6 billions, out of which she repaid the loan of the bank. She increased the taxes so as to be able to bear the new expenses and to make good for all the expenses of the war, including the indemnity to be paid to Germany. All this was done through an account called *compte de liquidation*, which remained opened for about ten years and through which went all the expenses arising from the war. Already the floating debt amounts to a sum which surpasses the whole amount borrowed for the former war, and we must be prepared for still larger loans to be contracted in the country or abroad.

In 1870 the only loan issued out of the borders was the so-called Morgan loan, subscribed in London in October; it amounted to 250 millions francs. All the moneys wanted for payments to be made in foreign countries came out of the proceeds of the sale of foreign securities held by French investors, who let them go and replaced them by French rentes issued at low prices from which they derived a large profit. The same will be done now. Some difficulty arises from the fact that the war extends over a great number of countries and threatens even neutrals, so that the selling of securities is not easy except in the United States. Hence, the ownership of foreign bonds does not prove as useful to Frenchmen as it proved half a century ago. However as Mr. Lloyd George said in the House of Commons, England could finance war during five years and France

during three years with the amount invested by both the countries in foreign securities.

If people should be disturbed by the difference between the sums wanted in 1870 and those needed in the present war, I would point out that the ordinary expenditure of France before the present war was about three times higher than in 1869. This justifies the conclusion that the country can bear a debt three times as large as it was at that time. The time will also come when neutral markets will recover their strength and give a good chance to holders of securities to get for them a reasonable price. This will be the signal for return to normal conditions. In spite of the enormous sums required, Frenchmen will find them with comparative ease. Hardworking and thrifty as they are, they will till their fields, reopen their manufactures, create new ones, open more markets for their goods and astonish the world once again by their vitality and their energy.

RAPHAËL-GEORGES LÉVY.

MEMBER OF THE INSTITUTE OF FRANCE.

PRICE MAINTENANCE IN THE BOOK TRADE

SUMMARY

I. Introduction. Prevalence of organisations in the book trade, 86. — Methods of distributing books, 87. — Fixation of book prices, 89. — II. Price maintenance in the German Book Trade. — Early efforts, 90. — Organization of the Exchange Association of German Book Dealers, 91. — Increase of customers' discounts, 92. — Rise of local and district book trade associations, 93. — Adoption of a price maintenance policy (1887), 94. — Opposition of book buyers, 95. — III. English Experience. Early attempts, 96. — Increase of price cutting, 97. — Organization of booksellers; the Publishers' Association (1896); adoption of the net price plan (1899), 98. — The *Times* and the Book War (1905–1907), 99. — IV. The American Book Trade, 101. — The American Publishers' Association, 102. — The American Booksellers' Association, 102. — Adoption of the net system, 103. — Opposition; the Macy litigation, 104. — Present status of price maintenance in the book trade, 106. — V. Summary and Conclusion, 106.

I. Introductory

The question of price maintenance has recently commanded more than ordinary attention because of the hearings and discussion in connection with the anti-trust legislation of the last Congress. Altho the Stevens Bill,[1] providing for the maintenance of fixed prices upon trade-marked products at the option of the manufacturer, failed to be enacted into law, the regulations with regard to local price cutting incorporated into the Clayton Act have more than a nominal connection with it. On the other hand, the Supreme Court of the United

[1] The bill proposed absolute uniformity of prices legally enforced, for each group of buyers, wholesalers, retailers, and consumers, with full publicity. One section of the bill was designed to prohibit monopolies or combinations in restraint of trade from availing themselves of its provisions. H. R. 13,305, 63rd Congress, 2nd Session.

States in a recent case has declared that a combination formed for the purpose of maintaining prices is contrary to the Sherman Act, therefore, presumably contrary to public policy, — virtually a declaration that price maintenance effected by a combination is detrimental.[1] Whether one adopts this attitude or not, it is interesting to observe and compare the efforts made in this and other countries to bring about the maintenance of fixed prices.

In no line of business activity have the advocates of the principle been more aggressive or achieved greater results than in the publication and distribution of printed books. There is scarcely a European country of importance in which booksellers and publishers have not endeavored through combination to maintain fixed and uniform prices.[2] In Germany, the Börsenverein and a complex distributing organization are utilized for the purpose. In France, the "syndicat" of publishers coöperates with the "syndicat" of booksellers. Belgium has her Cercle Belge de la Librairie; Holland, Switzerland, and the Scandinavian countries all possess their associations for the maintenance of book prices. In Great Britain the Publishers' Association and the Associated Booksellers, formed for the express purpose of maintaining prices, furnished the model for the American Publishers' Association and the organization of booksellers. The combinations in the three leading countries, England, Germany, and the United States are typical, and have been selected for closer study.

Published books are distributed in England and America in essentially the same manner as other mer-

[1] 34 Sup. Ct. Rep. 84 (December, 1913). Printers' Ink, May 7, 1914.

[2] Information concerning the regulations of the various organisations may be found in the English trade periodical, the Publishers' Circular and Booksellers' Guide, vol. lxxxv, p. 309, and in the American journal, the Publishers' Weekly, vol. lxxviii, pp. 1574 et seq. (hereafter abbreviated Pub. Cir. and Pub. Wk.). For Belgium, see also de Leener, Syndicats Industriels en Belgique, vol. i, pp. 393–395.

chandise. The publisher, as the manufacturer, disposes of his product to the wholesale book dealer, who in turn sells the books to the retailer; tho in some cases the publisher has chosen to pass over the wholesaler and deal directly with the retailer, or even with the consumer. But in Germany, the book trade possesses a complex distributive organization of its own, necessitated by the extreme decentralization which characterizes the marketing of books.[1] Under the present system, the retail dealer sends his orders at certain intervals to the special order office (Bestellamt) which has been established at Leipsic by the book trade association of that city for the convenience of the German book trade. There the order slips are sorted and sent either direct to the publishers, to the Barsortimenter,[2] or to the Kommissionären,[3] as designated upon the slips. The Barsortimenter is the exact parallel to the wholesale book dealer of England and America, — one who buys books outright from the publisher and keeps them in stock in anticipation of future demands of the retail trade. The Kommissionär is peculiar to the German book trade, being for all practical purposes a publishers' agent who for the purpose of facilitating delivery will usually carry in stock at a central point supplies of the books issued by the publishers whom he represents. Without one feature, the Kommissionär would be little more than a warehouse firm — namely the widespread

[1] Upon the history and organization of the German book trade, may be consulted, among other works, Fischer, Organisation des deutschen Buchhandels (1903); Kapp, Geschichte des deutschen Buchhandels, and Goldfriedrich's work of the same title, bring the history in very complete form down to 1889. Präger's Geschichte des deutschen Buchhandels, is a popularly written account. Karl Bücher, Buchhandel und Wissenschaft, will be taken up at greater length below. Jordan, Der Zentralisations- und Konzentrations-prozess im Kommissionsbuchhandel, shows very clearly the growing concentration in this branch of the trade. Cf. also Handbuch der Wirtschaftskunde Deutschlands, vol. iv, pp. 97–139. Much material is also to be found in the Kontradiktorische Verhandlungen to be mentioned later.

[2] Fischer, pp. 77 et seq.

[3] Pohle, in Schriften des Vereins für Sozialpolitik, vol. lx. Also Bücher, pp. 20–31.

use of the so-called *a condition* system, whereby the manufacturer sends books of his own publication to the retailer through the Kommissionär, on condition that the retailer return the books, carriage prepaid, if not sold by the following Easter fair (Ostermesse), or hold them at the disposal of the publisher. This system increases the utility and importance of the commission book merchants. The Kommissionär keeps the accounts of the publishers whom he represents; as is the custom in the trade, settlements are made annually at the Easter fair held at Leipsic. The retailer is thus not compelled to buy books the sale of which is very doubtful. Less capital is required in the retail trade; and the *a condition* system accounts in part for the decentralization which obtains. If the Kommissionär or Barsortimenter has no copies of the desired books in stock, the orders are forwarded to the publisher, who fills and ships them, usually *via* Leipsic or one of the less important centers, Berlin and Stuttgart.

In Germany, as well as in the United States and England, the publisher has the right to fix the so-called publishers' price — the stated retail price, not to be exceeded in actual retail sales, and expected to be maintained in them. The statement of this right is incorporated in German law, with the proviso that an advance in price shall require the consent of the author. Tho there is no specific statute in the other countries the general practice is the same. The publisher is a monopolist as regards any book he issues. He fixes prices with the design to yield the greatest net return, having regard to the character of the book, the extent and elasticity of demand, and the availibility of substitutes.

The publishers' price in the three countries to be considered, forms the base price from which, by an arrangement of discounts, the prices paid by wholesale

and retail dealers are computed. The retailers' discount varies from 20 to 50 per cent, the normal being about 25 per cent. In each of the three countries, moreover, competition between book dealers led to the introduction of a discount given to retail customers, which lowered the price to the buyer and the profit to the retailer. The customers' discount became common and was gradually increased in amount until the profitableness and hence the existence of the bookseller seemed to be threatened.

II. The German Book Trade

The first efforts, of 1802, to regulate by association the customers' discount in the German book trade had been preceded by several attempts to unite for other purposes, — chiefly in order to devise some means of doing away with the cumbersome method of making annual settlements at the Leipsic fair, and also to wage common warfare against piracy.[1] The outcome of this and later agitation was the organization in 1825 of the Börsenverein der deutschen Buchhändler, the main purpose of which was to constitute a sort of clearing house for the settlement of accounts.[2] The endeavor to remedy the discount evil in 1802 demonstrated the necessity of a centralized organization; while the later movements of 1832 and 1847–48 showed clearly that a decentralized organization was just as important.[3] The Börsenverein furnished the centralized organization, tho at this time

[1] For these early attempts, especially those of 1765 and 1798, see Goldfriedrich, vol. iii, pp. 223 et seq. They are also mentioned in vol. ii, p. 239, of the hearings in the official investigation of 1903–1905, known as the Kontradiktorische Verhandlungen über deutsche Kartelle (Verhandlungen uber den Börsenverein der deutschen Buchhandler am 11, 12, und 13 April, 1904, im Reichsamt des Innern und im Reichstagsgebäude zu Berlin, Stenographische Berichte). Cf. also Präger, vol. ii, pp. 151–152.

[2] Fischer, pp. 36, 203; Goldfriedrich, vol. iv, pp. 133–165.

[3] Pohle, in Schriften des Vereins für Sozialpolitik, vol. lx, pp. 480–491, 500; Bücher, p. 70; Präger, vol. ii, p. 85; Goldfriedrich, vol. iv, pp. 338–368.

it declined to aid either in the maintenance of prices or in the regulation of discounts.

For thirty years nothing was done in this direction. But the movement in favor of price maintenance received new stimuli in the decade of the seventies. The introduction in 1873 of the uniform 5 kg. parcels post promoted further competition and led to an increase in discounts granted to consumers, especially by the dealers located in Leipsic and Berlin, to which low freights attracted customers from a wider field.[1] At the same time, the discount given to retail dealers was gradually decreased in amount until 25 per cent became the normal, instead of the former 33⅓ per cent.[2] The booksellers' profit was not only sliced off at both ends, but the increased number of dealers also further diminished the profit of each. The depressed condition of the German book trade in the seventies became an acknowledged fact, and still further decline was predicted.[3] Finally, in 1878, at the instance of certain book dealers, the management of the Börsenverein called a meeting at Weimar.[4] The Börsenverein was not yet ready to coöperate in support of the publishers' price but it urged the formation of local book trade associations. In the following year, the existing local and district associations combined to form the Verband der Orts-und Kreisvereine. The local groups were unable without assistance to deal satisfactorily with the discount question. The book retailers appealed to the publishers in 1882, but out of the twelve hundred publishers less than half were willing to treat a larger discount than 10 per cent as excessive.[5] Nevertheless continued agitation

[1] Bücher, p. 70; Pohle, p. 504.

[2] Fischer, p. 184; Kontradiktorische Verhandlungen, p. 585; Handwörterbuch der Staatswissenschaften, dritte Auflage, vol. ii, p. 274.

[3] Kontradiktorische Verhandlungen. pp. 415, 591.

[4] Bücher, pp. 70–71; Pohle, pp. 500–502; Goldfriedrich, vol. iv, pp. 513 et seq.

[5] Pohle, p. 502; Handwörterbuch der Staatswissenschaften, vol. ii, p. 274.

had its effect. With active leadership and aroused sentiment, the Börsenverein at an extraordinary session in Frankfurt in September, 1887, decided to assist in fixing uniform and fair terms of sale, and to aid in the maintenance of the publishers' price.[1] The rules and regulations adopted at that time were very similar to those in force today.[2]

There are at present, consequently, two types of organization which coöperate to regulate the customers' discount and maintain the publishers' price. The first is the centralized organization, the Börsenverein der deutschen Buchhändler, whose history has just been sketched. It has a membership of publishers, and of wholesale, retail and commission book dealers, numbering 3,563 in September, 1913.[3] The purpose of this organization is primarily to subserve the general interests of the book trade by establishing agencies for facilitating the various operations in the distribution of printed books; but it has now also included among its objects, as mentioned above, coöperation with the retailers to maintain the publishers' price and to regulate discounts. Any person or firm actively engaged in the book business may join, provided he is a member of an approved local or district book trade association and signs a written contract to observe all rules which are at that time in force, or are subsequently ordered by the proper authorities.[4] The activities of the Börsenverein

[1] Fischer, p. 191; Pohle, p. 504; Goldfriedrich, vol. iv, pp. 562 et seq.

[2] Information as to the regulation at various times may be found in Pohle, pp. 504, 505; Fischer, p. 192; Handwörterbuch, vol. ii, p. 274; Addressbuch des deutschen Buchhandels, 1914, Abteilung IV, p. 30.

[3] Upon the Börsenverein, see Addressbuch, Abteilung IV, p. 30; Kontradiktorische Verhandlungen, pp. 581 et seq.; Fischer, pp. 205 et seq.

[4] The four administrative organs of the Börsenverein are (*a*) the general meeting of members (Hauptversammlung), (*b*) the managing board (Vorstand) in active charge of the business, (*c*) special committees in charge of the specific activities of the organization, (*d*) the local and district associations, the publishers' association, and the association of Kommissionären.

include, among others, the maintenance of a clearing house for the settlement of accounts; a department for the historical investigation of the book trade; the publication of the Börsenblatt, the official organ of the Verein and the indispensable trade journal; and the maintenance of friendly relations with, and the encouragement and approval under certain conditions of, local and district associations.

The second type, that of the decentralized local and district associations, is very necessary in order to secure the success of any plan to maintain prices.[1] In these, of course, retail dealers predominate. These local and district associations are again federated in the Verband der Orts-und Kreisvereine. There are still other combinations devoted to special branches of the trade, but the majority are not of interest in connection with price maintenance.[2] The German Publishers' Association, formed in 1886 to further general interests of the business, requires its members to join the Börsenverein, consequently shifting the matter of price maintenance to that organization.[3] The present combination of publishers is a general organization with a membership of about seven hundred, the activities of which are directed chiefly toward the elimination of certain credit abuses.

The regulations of the Börsenverein concerning the sale of books at retail, which must be observed by every bookseller, are substantially as follows:[4] in the sale of new books to the public (*i. e.*, to those purchasing for

[1] For list see Addressbuch, 1914, pp. 35–40, 45 et seq.; cf. also Kontradiktorische Verhandlungen, p. 586.

[2] For other special associations, see Fischer, p. 224; Addressbuch, Abteilung IV, pp. 42 et seq.

[3] Fischer, pp. 221–223; Addressbuch, p. 39.

[4] Handwörterbuch der Staatswissenschaften, vol. ii, pp. 274–275; Pub. Wk., vol. lxxviii, p. 381; Kontradiktorische Verhandlungen, pp. 582–585.

personal use), the publishers' price must be strictly observed; discounts are forbidden except to certain libraries (formerly 10, now 7½ and 5 per cent). Certain local exceptions, still existing, are gradually being abolished. Local associations may control by agreement the prices of books not fixed by the publisher. Violation of the rules of the Börsenverein or of the rules of an approved local association, is penalized very severely by exclusion from the Verein and a general boycott. The name of the offender is published; and all booksellers are bound not to deliver the books of any publisher against his will to such dealers as have been barred from the Börsenverein and the use of its agencies either by general vote of the organization or by the managing board. In effect, it means that if the dealer does not observe the rules, he can continue in business only with great difficulty. For he must pay full retail prices for his books, and he is refused the use of the vital parts of the book distributing system, the central order office, the services of the Kommissionären, and the Börsenblatt. The hearty coöperation of the various associations results in a most effective enforcement of the no-discount rules.

Considerable controversy has taken place as to whether the Börsenverein is a kartell or not, the test being direct control of price. The weight of German authority seems to incline toward the negative, asserting that the local and district associations are the real kartells, while the Börsenverein merely furnishes the means for enforcement.[1]

As might be expected, price maintenance and the abolition of discounts has met with opposition from several quarters. Individual book buyers, librarians,

[1] Kontradiktorische Verhandlungen, pp. 243, 244, 583; also R. Liefmann, in Conrad's Jahrbücher, vol. lxxxiii (1904), "Der deutsche Buchhandel in der Kartellenquete nebst Untersuchungen über seine voraussichtliche Weiterbildung."

and authors strongly opposed the movement. The outcome was the formation of the Akademische Schutzverein,[1] a protective association with branches in a number of university cities. As members were enrolled many men prominent in the academic world as well as the representatives of many important libraries. The Leipsic branch of the Schutzverein attempted to force the restoration of the customers' discount, and members proceeded to boycott all dealers who refused to concede, at the same time concentrating all purchases upon one firm. But the Börsenverein and its affiliated organizations immediately boycotted this firm and soon put a stop to this practice, as well as to the scheme for establishing a sort of coöperative book store.[2] At about this time (1903–04), Dr. Karl Bücher, one of the members of the Schutzverein, published a book entitled *Wissenschaft und Buchhandel* which on the whole represents the attitude of the protective association — a very severe criticism of the book trade and of the efficiency of the much-lauded organization. Dr. Bücher asserts that book prices have advanced, a fact which was generally admitted. With others, he detected therein an obstacle to the progress of German education.[3] Depression in the book trade, upon which the justification for abolishing the discount is based, is admitted, but this depression is ascribed not so much to abuses of the discount system as to the fact that the large profits of the trade had stimulated competition and had caused the number of book dealers to multiply far beyond the requirements for satisfactory

[1] Kontradiktorische Verhandlungen, pp. 594–596.

[2] Ibid., pp. 262 et seq., 347.

[3] Ibid., pp. 599 et seq. Bücher attempts statistical proof of the advance; also a pupil of his, Dr. Lösserth, presents a statistical analysis and arrives at the same conclusion. Cf. Dr. Gerhard Lösserth, Zur Statistic der Bücherpreise, Zeitschrift für die gesamte Staatswissenschaften, Jhg. lx, p. 338 (1904).

distribution.[1] Professor Bücher asserts that the publisher also is in part responsible for the higher prices — too many books published, and too few of each kind.

The friends of the book trade defended the business in numerous articles and pamphlets.[2] In connection with its kartell inquiry, the Imperial government finally in 1904 summoned representatives of the Börsenverein, the publishers, booksellers, the Schutzverein, and the librarians. In the course of the hearings the proposal was made and adopted to arbitrate the differences between the Börsenverein and the Schutzverein. The board selected for the task met in May, 1904, but the Schutzverein speedily broke off negotiations because the Börsenverein would not consent to large concessions.[3] Libraries were favored somewhat when in 1907, the Börsenverein promised the Prussian Ministry of Education that it would grant discounts of 5 and 7½ per cent, the latter to large libraries. Thereupon, the Börsenverein declared the discount question definitely and finally settled.

III. English Experience

Turning to England, one finds that book trade associations are mentioned as having existed as early as 1802. But the first to arouse widespread interest was the new organization formed in 1850.[4] Trade regulations were issued by the publishers in an endeavor to prevent the retail booksellers from granting a greater discount than 10 per cent to buyers. As in Germany and else-

[1] For statistics, see the various numbers of the official Addressbuch; also Handwörterbuch der Staatswissenschaften, article Buchhandel.

[2] Kontradiktorische Verhandlungen, pp. 605 et seq. See, for instance, Wissowa, in Conrad's Jahrbücher, vol. lxxxii (1905), pp. 218 et seq.; Bücher's reply, ibid., pp. 546 et seq.; also current numbers of the Allgemeine Buchhändlerzeitung after March, 1904.

[3] Liefmann, in article cited above, p. 201.

[4] Macrosty, The Trust Movement in British Industry, pp. 277–278; Robert Bowes, Booksellers' Associations, Past and Present (Taunton, 1905); Bookseller, January 24, 1908, p. 17.

where, competition among book dealers had led to the introduction and gradual increase of the customers' discount. At that time, booksellers generally opposed the attempt of the publishers to enforce fixed prices. The universal disapproval of all who spoke or wrote led the publishers and booksellers to turn the matter over to three arbitrators for final decision. The board, consisting of Lord Chief Justice Campbell, Dean Milman, and George Grote, rendered a decision in favor of the booksellers in 1852. The opinion states that the alleged right of fixing resale price is contrary to the freedom of trade, and is not included in the property rights of the publisher. As a result of the decision, the association of publishers was dissolved.

Free from restraining influence, book dealers increased the customers' discount until 25 per cent became the ruling rate, with 40 per cent to libraries. At the same time, dealers complained bitterly; the sale of books at such discounts left little profit. The existence of the bookseller was threatened. In the half century after 1852 there was in fact a marked decrease in the number of dealers keeping high grade new books. In 1890, a number of London booksellers formed the "London Booksellers' Society" in an endeavor to find some remedy for the depression. However, since the association had no means of controlling its members, it could not increase the profits of the trade by means of maintaining prices. Nevertheless, it was through the initiative of this society, and with it as a nucleus, that the present general combination of booksellers, known as the "Associated Booksellers of Great Britain and Ireland," was organized in 1895.[1] The following year saw the formation of a general association of publishers.[2]

[1] Bowes, p. vi; Bookseller, January 24, 1908, pp. 17–18.

[2] Pub. Cir., vol. lxiii, pp. 504, 644.

Then the booksellers asked the publishers to coöperate in establishing and maintaining a net price system.[1] Publishers were reluctant; the association claimed that it was beyond the sphere of the organization, and referred the dealers to the individual publishers.[2] Before the next annual meeting, however, the pressure exerted by the booksellers had been so effective that the council of the publishers' association approached a committee of dealers with a proposition that the customers' discount be limited to two pence in the shilling, intimating that the publishers would enforce it by whatever coercive measures were necessary. The retailers were not only willing to agree to such restriction but advocated total abolition of the discount. To such a step the publishers' association would not agree without the approval of the Society of Authors. This body in turn investigated the matter and refused to approve the adoption of the net price system.[3] The publishers accordingly declined to enter into the arrangement. The leaders in the movement did not, however, become disheartened; and finally the publishers assented to the demand of the retailers, proposing practically the net system.[4] Both associations soon adopted it formally. According to this plan, which went into force on January first, 1900, certain books were to be chosen by the publishers and designated as "net books." Such books were not to be sold to the public at less than the full publisher's price. Any violation operated to prevent the bookseller from

[1] Fred. MacMillan, in a letter to the Bookseller, March, 1890, proposed the net system. Cf. also Pub. Cir., vol. lxxxvi, p. 224. It may be of interest to state that when Messrs. MacMillan determined to try out the net system alone, since other publishers would not join them, they persuaded Professor Marshall to allow them to experiment with his Principles of Economics published in July, 1890.

[2] Pub. Cir., vol. lxiii, p. 99; ibid., vol. lxvi, p. 374.

[3] Ibid., vol. lxvii, pp. 7, 8. The text of the society's letter to the publishers with the various arguments, is to be found in Pub. Cir., vol. lxvii, p. 687.

[4] Nearly every number of the Publishers' Circular contains some reference to the agitation for the net system.

securing the usual trade discounts upon his purchases, thus forcing him to pay full retail prices.[1]

The adoption of the net system in England caused little organized opposition until the fall of 1905, when a London newspaper, the *Times*, conceived the idea of opening a loan library as an advertising scheme, membership to be free to its subscribers.[2] To the *Times* Book Club, as the arrangement was called, was added a bookselling establishment in which both new and second hand books, no longer needed in the loan library, were sold. These were advertised as "virtually as good as new" and offered at 35 per cent discount after one month's use, with larger discounts for books which had been longer in circulation. In securing its books, the *Times* had in common with all other booksellers agreed to the net system contract; and had at the same time secured five-year contracts with several publishers, as well as agreements in regard to advertising. The booksellers protested violently against this method of selling second hand books as a violation of the net agreement. The "book war" ensued between the *Times* on the one side and the booksellers and publishers on the other.[3] The publishers decided to support the retailers; and all publishers except those bound by long term contracts refused to supply books to the *Times* at less than retail prices. The publishers also withdrew their advertising patronage from the paper. Thereupon the *Times*, alleging that it was fighting the people's battle against the monopolistic book trust, attempted to impose a boycott of its own by asking the public not to buy books issued by those publishers who refused to deal with it. The publishers and dealers as vigorously defended the net

[1] Bowes, p. vii; Macrosty, p. 278.

[2] Macrosty, pp. 276–279; Pub. Cir., vol. lxxxiv, p. 37; ibid., vol. lxxxv, p. 5.

[3] Macrosty, pp. 279 et seq.; the columns of the Publishers' Circular and of the Times during this period contain innumerable paragraphs and articles upon the book war in all its phases.

system;[1] the Society of Authors on this occasion passed a resolution in its favor;[2] and the best literary journals lent their support to the publishers' association.[3] It became exceedingly difficult for the *Times* to secure books, so that various devious means were employed in order to keep the Club in operation.[4] A report was even circulated that the *Times* intended to establish a publishing house of its own; but nothing came of it.[5] After over two years of struggle, the book war came quietly to an end in 1908.[6] The net system triumphed, altho certain changes had been made in the rules, especially with reference to the treatment of second hand books. As the agreement now stands,[7] publishers will supply books to dealers at the usual trade discounts only upon condition that the bookseller agrees (*a*) not to sell any net books at less than the publishers' price; (*b*) not to offer second hand copies of a net book at a discount within six months of publication; and (*c*) not to treat as unsaleable or as dead stock, any copies within twelve months of purchase. Wholesale dealers must agree to allow the usual trade terms to retailers in good standing; and must agree not to sell any such net books at less than full net price to any customer who does not comply with the above conditions.

Since the trouble with the *Times*, the net system seems to have been working smoothly;[8] the number and

[1] Pub. Cir., vol. lxxxv, pp. 308–309; also pp. 423, 452.

[2] Ibid., vol. lxxxv, p. 553.

[3] A long list of references from the Athenaeum, Nation, Dial, etc., is to be found in the Reader's Guide. *Cf.* Pub. Cir., vol. lxxxv, pp. 633, 634, 789; also the pamphlet in favor of the publishers, reprinted from Truth of October 3, 1906, entitled "The Times, the Booksellers, the Public, and the Publishers."

[4] London Times, January 20–30, 1907; Pub. Cir., vol. lxxxvi, pp. 77, 265.

[5] Ibid., vol. lxxxvi, pp. 437; vol. lxxxvii, pp. 33, 203, 609.

[6] Ibid., vol. lxxxix, p. 435.

[7] Macrosty, p. 280. Current numbers of the Publishers' Circular contain in the advertising section a copy of the terms of sale issued by the publishers.

[8] See, for instance, the report of the Council of the Publishers' Association, Pub. Cir., vol. xcii, p. 463: also see vol. xci, p. 955, and Pub. Wk., vol. lxxxv, p. 1202.

proportion of net books among the net books published has been gradually increasing, and it is the aim of the associations finally to extend the system to cover the entire trade.

IV. The American Book Trade

The history of bookselling in the United States may be summed up in a few words, — comparative prosperity until the decade of the seventies, followed by depression ascribed to the gradual increase in the discounts granted to customers. Booksellers saw their profits decreased, not only by competition among themselves, but also by the rising competition of the department store, especially in the so-called staple books. They sought, consequently, to find a remedy for the situation in combination. But since the failure of the American Book Trade Association in 1876, after an existence of three years, little effort had been made along this line.[1] The exceptions were a few local organizations, of which the Virginia association was the most successful. The Booksellers' League of New York is another example.[2]

As the experience of England and Germany had demonstrated, local associations were unable to bring about any effective regulation of prices and discounts. The great need was centralized organization. The formation of the British booksellers' association in 1895 and the union of the publishers a little latter, undoubtedly exerted an influence upon the American book trade.[3] Unlike the movement in England, however, the creation of a centralized organization was in

[1] Pub. Wk., vol. vii, p. 27; vol. vi, p. 159; vol. lxxxvi, p. 1434.

[2] The Booksellers' League, by A. G., pp. 7 et seq., 33 et seq., 54, 55; Pub. Wk., vol. lviii, pp. 253, 917.

[3] Ibid., vol. lviii, p. 253.

the United States undertaken first by the publishers, who after much discussion formed the American Publishers' Association, eventually including a large majority of that branch of the book trade. The association it was declared, was "not a trust, or against any one class, author, department store, or the like, but an honest endeavor to make book prices honest and reasonable, and their sale reasonably profitable."[1] Strict maintenance of the publishers' price was the aim, but was not to be attained without the coöperation of the booksellers. Urged by the publishers, the American Booksellers' Association, including 90 per cent of the dealers both in number and volume of trade, was formed early in 1900.[2]

The plan finally adopted by the publishers' association and ratified by the union of booksellers went into effect in May, 1901.[3] The articles of the combination of publishers stated the agreement of its members that all copyright books, other than fiction, school books, and such new editions as the individual publisher might wish to be exempted, should be published at net prices, — which it was recommended should be reduced from former prices. It was further agreed that such copyrighted books and all others of their volumes should be sold by them only to those booksellers who maintained the retail price, as fixed by the publishers, for one year, and to those booksellers and jobbers who would cooperate in maintaining book prices by refusing to sell to

[1] Pub. Wk., vol. lviii, p. 287; vol. lxxxvi, pp. 1434 et seq. Also Bobbs-Merrill Co. v. Straus, 139 Fed. 155, reprinted in Federal Anti-Trust Decisions (hereafter abbreviated F.A.T.D.), vol. ii, p. 755, 759.

[2] Pub. Wk., vol. lviii, p. 917; vol. lix, p. 487; F.A.T.D., vol. ii, p. 761.

[3] Ibid., vol. ii, p. 759, Exhibit A; Pub. Wk., vol. lix, pp. 525–526. The American Booksellers' Association at its first annual convention in 1901, adopted a resolution endorsing the action of the publishers' association and urging the extension of the net system to all books including fiction. Ibid., vol. lix, p. 893; F.A.T.D., vol. ii, pp. 761–762, Exhibit B.

those known to cut prices, or to violate the rules established in certain cases by local associations. The only exception allowed was in the case of libraries, to which a discount was permitted. These rules were not binding for more than one year after purchase; but the publisher reserved the right to buy back any lot of books upon which the retailer might intend to cut the price. It was the duty of members to report all cases of cutting to the central office. During 1902 and 1903, some changes were made in the sales regulations; the maximum discount on fiction, for example, was fixed at 28 per cent, violation of which was to be treated as a violation of the net agreement.[1]

Librarians were in general not in sympathy with the net system; since with their limited funds, each increase in book prices meant a reduction in the number of books purchased.[2] The protests of the individual book buyer received little publicity. But the only serious opposition to the enforcement of the net system came from a New York department store, Macy's, owned by Straus and Straus. Contrary to regulations, Macy's proceeded to cut the prices of net books. The associations then applied the boycott provided for such cases; so that it was only by buying in small lots at great expense, through agents stationed in various cities of the United States, that this department store could secure books to supply its customers. In 1903 Macy's took the matter to the courts, beginning a period of litigation which was not ended until a decade later. In the series of cases before the New York and Federal courts, one or both of two distinct questions have been up for settlement. The first concerned the right of the owner of a copyright

[1] The articles as amended are reprinted in F.A.T.D., vol. ii, pp. 762 et seq., Exhibits C, D, and E.

[2] Opinion of the American Library Association, Pub. Wk., vol. lxxix, p. 1103.

to fix resale price; the other the legality of combinations for maintaining prices fixed by individual publishers.

As a first step, Macy's applied for an injunction to restrain the American Publishers' Association from carrying out its boycott on the ground that the combination was unlawful and in restraint of trade. The association replied that each publisher was free to fix his own prices; further that combination was resorted to in order to remedy the recognized disorganization in the book trade, which Macy's now wished to renew. The injunction was refused, no violation of the Donnelly Act (the New York anti-trust act) being discovered. The case was then carried to the higher New York courts. The Appellate Division of the Supreme Court reversed the earlier decision by declaring that copyright gave no power to control prices after the first transaction had been completed. The American Publishers' Association carried the case to the highest state court, the Court of Appeals, which rendered a decision adverse to the publishers. This last decision did not involve the question relating to copyrights, but asserted that the attempt to prevent Macy's from procuring uncopyrighted books was a restraint of trade and contrary to the Donnelly Act.[1]

Thereupon, both the publishers' and booksellers' associations proceeded to amend their rules by dropping the phrase "and all other books" in the boycott provision, thus making the rules applicable only to copyright books. The American Publishers' Association was allowed to amend its pleadings to conform to the change in its rules.[2] The former decision was then upheld as far as it applied to uncopyrighted books and the matter was

[1] 177 N.Y. 473 (85 App. Div. 446). Portions of the opinion are quoted with approval in F.A.T.D., vol. ii, p. 771; see also Harvard Law Review, vol. xix, 123.

[2] Pub. Wk., vol. lxv, 761; F.A.T.D., vol. ii, p. 776.

turned over to a referee to estimate damages suffered by Macy's from interference with uncopyrighted books. But the firm was defeated in its attempt to secure damages for copyright books, both in the Appellate Division of the Supreme Court, and in the Court of Appeals.[1]

Meanwhile, Macy's became involved in proceedings in the Federal courts. The Bobbs-Merrill Co. brought suit against the department store asserting that underselling was an infringement of the copyright.[2] A decision in favor of Macy's was rendered by the United States Court of Appeals, affirming that the owner of a copyright had no power to fix resale price. It also held that the American Publishers' Association was a combination in restraint of trade. None too sure of its legality, this association had already in 1907 repealed all its rules and had adopted resolutions changing the former agreement into a "recommendation," trusting to the honor of its members for its execution.[3] The Macy firm, little satisfied with the decisions of the New York courts in 1909, carried its case over into the Federal courts, — bringing suit for $375,000 damages suffered through interference with copyright books. Finally reaching the Supreme Court of the United States, a decision was rendered in December, 1913, in which the American Publishers' Association was declared to be a combination in restraint of trade, within the prohibition of the Sherman Act.[4] It was reaffirmed that in this case copyright did not give the owner the power to fix resale

[1] Pub. Wk., vol. lxxvi, p. 90; vol. lxxviii, p. 1397.

[2] Bobbs-Merrill Co. v. Straus, 139 Fed. Rep. 155, reprinted in Federal Anti-Trust Decisions, vol. ii, pp. 755 et seq.

[3] 231 U.S. 222 (1913).

[4] 231 U.S. 222 (1913); Pub. Wk., vol. lxxxiv, pp. 1933–1937, 2151; Harvard Law Review, vol. xxvii, p. 293. The briefs in the case are reprinted in Pub. Wk., vol. lxxxiii, pp. 948–971. The association finally arrived at an agreement with Macy's whereby the former was to pay the latter $140,000 damages. Ibid., vol. lxxxvi, p. 7.

price.[1] As a consequence of its failure to secure legal recognition, for the principle for which it had primarily been organized, either by the courts or by statutory enactment, the American Publishers' Association voted to dissolve in the fall of 1914, tho still stoutly maintaining that the association never was a trust.[2]

V. Summary and Conclusion

The foregoing comparison of the book trade associations of the three countries discloses a remarkable similarity. In each instance, disorganization and depression in the retail book trade, due in part to the introduction and increase of the discount given to customers, led to combination as a means of remedying the situation. In Germany and England, the publishers were at first unwilling to coöperate when urged by the booksellers to assist in maintaining prices; in America, the publishers took the initiative. In each country, maintenance of the publishers' price was the aim; and in each the means of attainment was the same, — the boycott, refusal to treat the offender as other than a retail buyer. It appears that only in America has the copyright been utilized to enforce fixed prices. The

[1] A later case in which the Macy firm was sued for damages by a talking machine concern for price cutting has been decided in the same way. Victor Talking Machine Co. v. Straus. Pub. Wk., vol. lxxxvii, p. 968 (March, 1915). A recent decision by the Supreme Court of the state of Washington, relating to the sale of flour at less than the resale price fixed by the manufacturer, has been decided in favor of the fixed price policy. Fisher Flouring Mills Co. v. Swanson, ibid., vol. lxxxv, pp. 507 et seq. The case is free from complications since it involved no monopoly, no question of trade-mark rights, and the decision was made to rest solely upon the question of public policy.

[2] Since the decision, the publishers have worked more energetically to bring about a legalization of the fixed price system through special enactments amendatory to the Sherman Act. The Stevens and Metz bills favoring price maintenance have been favored generally by the publishing trade. The advocates of the principle hoped to incorporate a provision in the recent anti-trust act dealing with the fixed price system, but were not successful. Ibid. vol. lxxxv, p. 1144. The hearings and net price debate in Congress during the discussion of the anti-trust bill are reported, ibid., pp. 1145, 1147. Cf. also ibid., vol. lxxxv, pp. 664; vol. lxxxvii, p. 663. Dissolution of association, vol. lxxxvi, pp. 1433, 1434.

book trade combinations have everywhere met organized opposition, but only in the United States were they unsuccessful in the struggle. Germany and England now accept price maintenance as legal and proper; but in this country associations established for this purpose have been declared illegal, and the whole question is now up for acceptance or rejection by the public.[1]

The argument against the uniform price system in the book trade rests mainly upon the assertion that the more efficient distributors should be allowed to give the public the benefit of lower costs of handling a product. It is claimed that any system of uniform net prices will unavoidably work injustice upon consumers, because they are deprived of the benefits of location and other factors which might tend to lower the price. Much is also made of the legal right of the owners of property to dispose of it at such prices as he sees fit.[1] Finally, under the fixed price system, there is constantly the danger that the prices will be too high, thus detrimental to the public.

The arguments in favor of the net system in the book trade are numerous. It is asserted that the maintenance of prices is of advantage to the bookseller, first because it insures him the benefit of any trade value he may have acquired; secondly, it insures him at least a reasonable profit; further, the big dealer is not given an undue advantage; and finally, he is free from the competition of those stores which cut prices for advertising purposes. The net system appeals to the publisher because it assures him a system of distributing agents,

[1] For a general discussion of the problem of price maintenance, see T. A. Fernley, Price Maintenance (1913); Cherington, Advertising as a Business Force, pp. 380–423. Numerous references are to be found in the trade periodicals, Printers' Ink and Publishers' Weekly, especially during the past three years. Cf. among others, Pub. Wk., vol. lxxxv, pp. 193, 507 et seq., 664, 1144; vol. lxxxvi, pp. 1967, 347; vol. lxxxvii, pp. 663, 434, 968, 1008, 1264. Also the article by Mr. E. S. Rogers, "Predatory Price Cutting as Unfair Trade," Harvard Law Review, vol. xxvii, p. 139.

and protects him from the harm which may result when the publisher's price is not observed by retail booksellers. It is conceivable, and even probable, that the ruthless underselling of the books of a given publisher might have the result of turning other booksellers away from the firm, thereby actually decreasing his sales. Viewed in this light, price cutting may become unfair trade, because the publisher is deprived of a certain amount of patronage to which he is entitled; also because a firm by cutting prices is apt to give the impression among buyers of that article that the price fixed was too high, thus destroying a certain amount of value, good will, reputation, or whatever else one may choose to term that intangible quantity.

The consumer, it is said, is benefited by price maintenance because all buyers are treated absolutely alike; no one class of purchasers is favored at the expense of another. The net system enables the local bookstore to continue in business, — a great educative force in the community. But to the consumer the vital question is, how will price maintenance affect book prices, not only immediately, but permanently? The ultimate adoption or rejection of the principle of price maintenance depends upon the answer to this question. If the prices are reasonable, the public is benefited; if unreasonably high, the public is deprived of the leveling influence of competition, and in the end would pay more for its books than under competitive conditions. Theoretically, the elimination of some of the wastes of competition ought to enable the book trade to maintain prices at a level somewhat below that which would prevail under unrestrained competition. The discussion is endless; for it involves the questions of normal price, of normal profit, and of the best mode of distribution. As yet, one is safe only in the assertion that if

the price level selected and maintained is the proper one, the policy of price maintenance possesses decided advantages for publisher, dealer, and book buyer; if the level is too high, the consumer suffers; if too low, either the dealer or publisher, or both; eventually, also the consumer.

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THE CALIFORNIA CASUAL AND HIS REVOLT

SUMMARY

I. The Wheatland Episode

Labor history, more than any other subdivision of economic history seems to be written in terms of impressive events. In August, 1913, in the hop fields of Wheatland, California, such an event took place: an unusual strike, as strange as any in the annals of western labor. Men were killed, the country side cast into hysteria, the militia called out, and the state was made to realize overnight that San Francisco unionism was not the sum total of her labor problem. California long had known that nowhere in the country was there as unionized a city as San Francisco, that wages were high even as compared with the New York building trades, that the Exposition had been built as a closed shop, and that a candidate, be it for governor, who was luke warm regarding the policies of organized labor had a remote chance of election. To Californians this for more than twenty years had been their labor question. With the dramatic entry of the hop pickers on the stage there began such a widespread and agitated discussion of the condition of the state's casual workers, that the

two years of 1913 and 1914 will be known in western labor history as the " period of the migratory worker."

The story of the Wheatland hop pickers riot is as simple as the facts of it are new and naïve in strike histories. Twenty-eight hundred pickers were camped on a treeless hill which was part of the Durst ranch, the largest single employer of agricultural labor in the state. Some were in tents, some in topless squares of sacking or with piles of straw. Eight small toilets had been erected and four days use had made them revoltingly filthy. No toilets had been alloted to women. There was no organization for sanitation, no garbage disposal. The temperature during the week of the riot had remained near 105°, and tho the wells were a mile from where the men, women and children were picking, and their bags could not be left for fear of theft of the hops, no water was sent into the fields. A lemonade wagon appeared at the end of the week, later found to be a concession granted to a cousin of the ranch owner. Local Wheatland stores were forbidden to send delivery wagons to the camp grounds. It developed in the state investigation that the owner of the ranch received half of the net profits earned by an alleged independent grocery store which had been granted the " grocery concession " and was located in the center of the camp ground.

An examination of the wage system of this ranch for both the seasons of 1912 and 1913 showed an interesting phenomenon. Each day there existed four possible wage rates. If many hop pickers had drifted in by wagon and train and foot during the previous day, and as a result an unemployed crowd hung about the check window at sunrise, then ninety cents per hundred pounds was hung up as the piece price for hop picking. If there were unemployed still desirous for work even

after this wage announcement, and a surplus hung about the window the following morning, it was the custom to lower the wages to eighty-five cents per hundred pounds. Like the immigrant at Ellis Island, the hop picker arrives at the job without a money reserve. The dictator of the wage policy of this ranch explained that if the pickers grew disgruntled at either the rate of pay or the average income and drifted away, leaving work checks uncalled for, then the wage scale would be raised to ninety-five cents or even a dollar. There had been certain days in the past, he said, when a labor exodus had forced the price to as high as $1.10 before the workers would flow in and allow the rate to sink to a more profitable level. In order to counteract any wavering in allegiance to the job, 10 per cent of the gross wages was held out by this ranch to be paid to those who remained through the season. The ranch owner argued that this was a real bonus, because so many left before the season was out that they, the deserters, fixed the real average wage; therefore those who remained to receive the 10 per cent were paid just that amount more than the average. In a private hearing before the Governor, an attempt to establish whether a bonus should be taken from the wage fund or the profit fund was without success. Possibly this failure illustrates a certain general confusion upon the issue. To uphold this wage system it was necessary to advertise throughout California and in southern Oregon and western Nevada that everyone who applied on or before the day picking was to begin could obtain a job. It is difficult to estimate the vast number of migratory workers who make this ranch a short stopping place at some time in the five weeks of hop picking.

The pickers in August, 1913, were drawn from three sources. About a third came from California towns and

cities, men and boys who form the great class of town casuals, and the wives and children from various strata of the middle class. Another third were families from the Sierra foothills, quasi-gypsies, with carts or ramshackle wagons. The final third were the migratories, — the pure hobo, or his California Exemplar, the " fruit tramp "; Hindus; and a large party of Japanese. There was much old time California blood in this group, and even if the individuals had come upon evil economic days, their idea of personal dignity and their devotion to certain strange western " rights " had remained most positive. They began coming to Wheatland on Tuesday and by Sunday the irritation over the wage scale, the absence of water in the fields, plus the persistent heat and the increasing indignity of the camp, had resulted in mass meetings, violent talk, and a general strike.

The ranch owner, a nervous man, was harassed by the rush of work brought on by the too rapidly ripening hops, and indignant at the jeers and catcalls which greeted his appearance near the meetings of the pickers. Confused with a crisis outside his slender social philosophy, he acted true to his tradition and perhaps his type, and called on a sheriff's posse. What industrial relationship had existed was too insecure to stand such a procedure. It disappeared entirely, leaving in control the instincts and vagaries of a mob on one hand, and great apprehension and inexperience on the other.

As if a stage had been set, the posse arrived in automobiles at the instant when the officially " wanted " strike leader was addressing a mass meeting of excited men, women and children. After a short and typical period of skirmishing and the minor and major events of arresting a person under such circumstances, a member of the posse standing outside fired a double barrelled shot gun over the heads of the crowd, " to sober them,"

as he explained it. Four men were killed, two of the posse and two of the strikers, the posse fled in their automobiles to the county seat, and all that night the roads out of Wheatland were filled with pickers leaving the camp. Eight months later two hop pickers, proven to be the leaders of the strike and its agitation, were convicted of murder in the first degree and sentenced to life imprisonment. Their appeal for a new trial was denied.

Dramatic because of its suddenness and the deaths, sordid in its details, in some way the episode caught and held the attention of the state. It is impossible to understand California's ensuing inspection on the subject of its peculiar labor problem without a description of the Wheatland episode. This brought the state to some degree of self-realization. The Federal Commission on Industrial Relations and the State Commission of Immigration and Housing turned their initial interest in the significance of the hop pickers riot to the problem thus dramatically introduced of the migratory worker in the west. The riot in the end served many purposes, one of which was to lend dignity to the I. W. W. in a very appreciable manner. Sympathy with Syndicalism and ultra radical theories appeared in the most unexpected places. A group of women who had been identified with the most notable agitations in the California feminist movement went from trade union to union begging for funds to defend the indicted hop pickers. It was disclosed that many trade unionists in San Francisco sympathized with Syndicalism, some going so far as to have cards in both organizations. It was disclosed in the trial that certain suspects among the hop pickers had been held in jail many weeks without being charged or given a court hearing, a record of their arrest existing only on a so-called "secret blotter." This fact, in addi-

tion to an unexplainable participation of a private detective agency in the case, was a focus for very warm opinion. The county authorities' traditional treatment of vagrants and migratory workers with "no visible means of support" gave a sickening picture, and an uncomfortable hint of a vast amount of cruelty and injustice. Any romance which the far west had thrown around a sheriff's posse was rudely stripped from the institution, and the prophecy was accepted that if the posse be the police power in any period of agricultural strikers and disorder, a large measure of dangerous inefficiency is assured. The most important result of the riot was the study of the economics of the labor field thus suddenly disclosed; and it is the results of this research to which we now turn.

II. The California Casual

California is a natural economic entity, insulated from the rest of the world by an ocean on the west, a desert south, and high mountains north and east. This gives a fair basis for isolating the labor problem to be considered under the present caption. The census shows the existence in the state of some 175,000 workers in the casual-using occupations. Of these, 72,157 are farm laborers "working out." A dependable estimate of the number of laborers in labor camps of the state at the time of maximum population is 75,000. The State Immigration Commission gathered statistics for 876 labor camps with a capacity of 60,813 workers. There has been a noteworthy industrial and agricultural specialization by districts in the state. Mining and the two diverse kinds of coast lumbering, *i. e.*, the Sierra pine belt and the lower lying redwood belt, have given three detached labor fields. Agricultural California today is

spotted with districts devoted to highly specialized and seasonal crops, running geographically from the oranges of the south through the walnuts of Santa Barbara, the raisins of Fresno, the artichokes of Half Moon Bay, the berries of Santa Clara, to the early peach and the olive regions of the northern Sacramento Valley. Each town is a specialist and each Chamber of Commerce a "booster club" for a single product. This nature-ordained agricultural specialization is the basic cause of the existence of the California migratory worker. Another factor important is the circumstance that California for the last five years has been the scene of more railway and highway construction than any state in the west. Thus there was added to the local casuals a new element, the middle west railway laborer, the "construction work hobo." He has transplanted his personal habits and labor psychology into western soil without western adaptation.

In 1913–14 an investigation was carried on in California which utilized schedules covering 222 typical migratory workers, and from the resulting report the following generalizations appear well-based. Nearly half (48 per cent) were native Americans. The statistics of the Chicago Municipal Lodging House for 1910–12, covering 30,888 cases, of whom 60 per cent were estimated as migratories, give the percentage of "Americans" as 53.5. Of the California number investigated 76 per cent were unmarried and 7.1 per cent had abandoned their wives. Four years of Chicago statistics show nearly 90 per cent unmarried. Of the 222, 47 per cent were under thirty years of age. A study in Chicago of 38,256 casuals in 1910–12 showed 44 per cent below thirty years of age. In California 33 per cent were between thirty and forty years of age, in Chicago, 27 per cent. Of the 30,888 examined in Chicago, 60 per

cent were unskilled; 52 per cent of the California group admitted no trade training whatsoever. Of the Chicago group, but 21 per cent had been long enough in that city to establish a legal residence. Of the 222, 73 per cent had worked at their last regular job in some locality other than the one in which they were examined. 21 per cent had had their last job outside the state. 41 per cent had been casual laborers less than six years, and 36 per cent between six and fifteen years. The per cent who admitted their intention of "floating" with no idea of looking for steady work was 67. 35 per cent left their last job voluntarily. This hints at a conclusion which finds support in all the studies of the casual, the tramp, or the vagabond: that casualty begets a labor type permanently under normal. There is today sufficient evidence from various quarters to make this grave charge against seasonal work. For instance, in Belgium the statistics of admissions in 1908 to the Wortel Beggars Depot show 1,222 committed for the first time, 435 for the second, 261 for the third, 163 for the fourth, and 717 for the fifth time or oftener.

Some of the more intimate statistics of the California group are suggestive: 22 per cent had belonged to a lodge; 29 per cent had been members of a Protestant Church, 18 per cent of the Catholic; 48 per cent gave no preference for a political party, yet 37 per cent advocated the complete destruction of the present political system. Despite the Wheatland riot and the extensive propaganda of the I. W. W. among this very labor class, but 8 per cent belonged to that organization. 41 per cent had ceased writing or maintaining any connection with relatives, and 86 per cent said no one was dependent upon them. Somewhat similar evidence is the fact that out of thirty suicides in the men's cheap lodging houses in San Francisco in the month of December,

1913, but two left behind any word as to their source or relatives. The schedule examiners reported that 74 per cent were in good or fair physical condition, and 24 per cent sick. The Chicago statistics covering 130,053 cases reported 84.8 per cent "able-bodied." 77 per cent of the 222 in California were alcoholic, and 26 per cent admitted a jail record. The Department of Education of Stanford University tested two hundred unemployed of the migratory labor class and almost an even 25 per cent were found feeble-minded. Binet tests made in 1913 by the Economic Department of Reed College, Portland, covering 107 cases taken from the unemployed army showed the percentage of feeble-minded to be 26.

A California state official of long technical experience, whose duties bring him in direct contact with the young vagrant, believes that he has the data to prove a widespread practice of homosexuality among the migratory laborers. Investigation reports of a most dependable and technical nature show that in the California lumber camps a sex perversion within the entire group is as developed and recognized as the well-known similar practice in prisons and reformatories. Often the men sent out from the employment agencies are without blankets or even sufficient clothing, and they are forced to sleep packed together for the sake of warmth. Investigations are beginning to show that there are social dangers which a group of demoralized, womenless men may engender under such conditions of greater menace than the stereotyped ill effects of insanitation and malnutrition.

III. The Labor Camps, the Labor Turnover

An investigation of the labor camps of the state was carried out in the summer of 1914 by the State Commission of Immigration and Housing under the direction of the present writer. 876 camps were examined in which at some time in the summer 60,813 men were to be housed. Of these camps 297 (34 per cent), holding 21,577 workers, were pronounced in good condition; 316 (36 per cent), housing 22,382 men, fair; and 263 (30 per cent), housing 16,854 men, were so insanitary and destitute of essentials that they were entered as bad. In this investigation "fair" was below the minimum established by the State Board of Health. Of the berry camps investigated, 68 per cent had toilets statistically noted as "filthy." The toilets were in this same condition in 37 per cent of the fruit camps, 69 per cent of the grape camps, 38 per cent of the highway camps, 52 per cent of the 135 hop camps, 42 per cent of the lumber camps (tho they could be described as permanent in many cases), 37 per cent of the mining camps, and 61 per cent of the ranch camps. The large corporation made an interesting break in this recital, for but 24 per cent of the railway camps were "filthy;" and in the oil fields, where Standard Oil and the Union Oil Company are largely in control, the percentage was 27. In 29 per cent of the construction and 25 per cent of the highway camps there were no toilets whatever. For all the 876 camps, 13 per cent had no toilets, 41 per cent maintained filthy toilets, 20.4 per cent fairly sanitary, 23.4 per cent sanitary and fly screened. Among all camps 40 per cent provided no bathing facilities at all, 39 per cent offered tubs or showers. Of the 527 labor camps using horses, 47 per cent allowed the manure to accumulate in the vicinity of the kitchen and mess tent. 35 per

cent of the kitchen and mess tents had no screens. 25 per cent of the camps had no garbage disposal, the kitchen refuse being allowed to accumulate indefinitely. It is a proverb in the health service of the two great valleys that every labor camp has its typhoid carrier. Certain fruit towns expect their ten cases of typhoid per year.

It will be seen that the camp conditions at Wheatland constituted no isolated case. The early California population was a pioneer community and their complete acceptance of individualism gave little room for social realizations. This doctrine remains the current philosophy of the country districts, and despite the statewide influence of the social legislation of the Johnson administration, the inherited psychology of the employer of casual labor remains the same.

Resistance by the worker to an employer's labor policy takes one of two forms: either an open and formal revolt, such as a strike; or an instinctive and often unconscious exercise of the "strike in detail," — simply drifting off the job. The latter phenomenon is called by the employers "undependable labor," and ideas concerning this willful unreliability constitute the layman's usual version of the California labor problem. In the light of the recent investigations it would appear that the California employer obtains the labor to whom his conditions of employment are attractive. A study first of the "strike in detail" in the state is convincing.

Statistics were obtained from the books of the Southern Pacific and Northwestern Pacific, the two systems carrying on the most important railway construction in the west. On the Northwestern Pacific, in a camp called the "Tunnel Camp," during the five months from January to May, 1914, 529 men worked 7,414 days, an average of 14 days per man. In the "Grade Camp" of

the same company adjoining the "Tunnel Camp," during the seven months from June to December, 764 men worked 7,723 days, an average of 10.1 days per man.

On the Southern Pacific, in another "Grade Camp," statistics covering March 10 to July 8 show 480 men working 4,145 days, an average of 8.6 days per man. These figures bear out the employment agency proverb that there are three crews of men connected with the job, one coming, one going, one on the job.

A big dried fruit packing firm in Fresno reported that to keep up a skilled crew of 93 men, 41 per week had to be hired throughout the season. A large ranch with a fruit season of nine weeks reported a monthly turnover of 245 per cent. One power house construction job in the Sierras gave figures showing that to maintain a force of 950, over 1,500 men a month were shipped to them.

It seems that when a laborer has earned a sum which road tradition has fixed as affluence, he quits. This sum is known as a "jungle stake," and once it is earned the hobo discipline calls upon the casual to resort to a camp under a railroad bridge or along some stream, a "jungle," as the vernacular terms it, and live upon this "stake" till it is gone. Thereupon he goes north to a new maturing crop. Weeks spent among the casuals by two investigators convince them of the wide prevalence of this custom. In the words of a report, "the sum which usage prescribes that a jungle stake should be, taken in relation to the wage in the district, fixes the casual's endurance on the job. Today between ten dollars and fifteen dollars is a proper stake." The statistics of the 222 California casuals examined show that but 29 per cent left their last job because work gave out. Taking into calculation both the tendency to drift away from a fairly permanent job, as shown by the construction work figures, and also the normal short duration of the

fruit or harvesting work, some such generalizations as the following, gathered by the investigators, seem to be dependable. The duration of a job is : —

In lumber camps	15–30 days
" construction work	10 "
" harvesting	7 "
" mining	60 "
" canning	30 "
" orchard work	7–10 "

IV. Winter Unemployment; the Revolt

California is a state of summer employment. The seasonal activity of the canneries, the state's principal industry, illustrates this fully. In August, 1909, California canneries employed 16,047; in February, but 2,781. Of the 150,000 migratory workers employed in the summer, a mass of direct and indirect information indicates that fully 100,000 face sustained winter unemployment. Driven out of the lumber and power construction camps and the mines of the Sierras by the snow, out of highway camps by the regular winter shut down, and out of agriculture by its closed winter season, with a winter's stake estimated to be on the average $30, these tens of thousands " lie up " for from five to six months in the cities of the coast. A San Francisco canvass of the ten and fifteen cent lodging houses and the cheap hotels of the foreign quarter, made in December 1913, showed that over forty thousand were " lying up " in that city. A Los Angeles estimate gave 25,000; Sacramento showed approximately 3,000; important additions came from Stockton, Fresno, and Bakersfield. The winter of 1913 was a hard one for the lodging house man. His stake was small, and by October there were hungry men on the San Francisco streets and talk of a bread line. One of those odd creatures appeared who

inhabit the border land of labor, "General" Kelly, and in two weeks had organized an unemployed "army" whose enlistment soon reached two thousand. The recruits were a fair cross-section of the thousands of migratories lying up in the city: those who were penniless and evicted from lodging houses, the younger gentry looking for adventure, the quasi-yegg looking for disorder, the border line defectives attracted by the military form, and lastly the normal casuals weary of monotonous privation. After a few weeks the inaction caused the more restless and able to drift away. By December, through this segregation, the "army" had become a human scrap heap and the wet and disconsolate camp on a vacant lot a social caricature. With doubtful generosity the city turned over to the army a vacant building near the City Hall. Soon it became crowded and filthy beyond description. Men were lying in every shape and direction upon the floors of every passage and hallway of the house. In round numbers there were 700 men in the upper stories and over 500 in the vacant stores of the ground floor, a total of over 1,200 men.

A few weeks later the Army began its demoralized march on the national capital. It left San Francisco by ferry, landed in Oakland, was passed rapidly by armed Oaklanders through the city on to Richmond. Here the exasperated mayor organized transportation and passed the hungry legion on to Sacramento by train. This town, after a day of fruitless cogitation, descended on the camp with pick handles and fire hose, drove the army across the river, and burned the blankets and camp equipment. Guards with rifles kept the bridge. The writer had opportunity of remaining most of four days with this now broken and dispirited body of men, studying some fifty odd closely. They were willing to

talk, many being in a highly excited and uncontrolled state. Over half, either through long malnutrition and privation, or through constitutional defects, had reached an abnormal mental condition. There were defectives even among the "officers," and much of their "strategy" against the businesslike riflemen at the bridge was curiously like the scheming of small boys. The suffering and helplessness, the pitiful inefficiency of this broken mob, the bitter humor of the feeble military form to which it still clung, made the entire picture an economic cartoon. It was impossible to be there and not get a vivid impression of a class inferior, unequal, and with fewer rights than normal American tradition promises to its citizens.

Within three weeks the Army, rained on and starved out, melted away, and its members joined that restless migration into which the first spring days had stirred the lodging house population. The Army's psychology had dissolved into the larger psychology of the migratory 150,000, and its winter's experience added to that collection of strange complexes which make up the California casual's mob mind.

There is here, beyond a doubt, a great laboring population experiencing a high suppression of normal instincts and traditions. There can be no greater perversion of a desirable existence than this insecure, undernourished, wandering life, with its sordid sex expression and reckless and rare pleasures. Such a life leads to one of two consequences: either a sinking of the class to a low and hopeless level, where they become through irresponsible conduct and economic inefficiency a charge upon society; or revolt and guerilla labor warfare.

The Wheatland strike was revolt and warfare, and was engineered by the I. W. W.; and tho there were but a handful of members and a single leader at the Durst

ranch, the strike was momentous in results. The trade unions themselves had given and still give but perfunctory notice to the migratory laborer. Tho the skilled railway employees are completely unionized, their interest has not extended to the railway construction workers whose working and living conditions are utterly deplorable. California, an investigation showed, has between 4,500 and 5,000 active members of the I. W. W. Up to the Wheatland affair their energy in the west had gone into free speech fights, notably at Fresno and San Diego. Since Wheatland they have devoted themselves entirely to organizing the migratory laborer. The destructive efficiency of the I. W. W. strike tactics, that of "direct action" and sabotage, was shown in the organized hop strike of 1914, tho the strike failed. Even in the spring of 1915 barn and kiln burnings occurred in the hop fields up and down the state, — a back fire of the riots of 1913. It is not difficult to understand the light allegiance to law and order, to the sanctity of property, which is an outstanding characteristic of this group. Much of their so-called syndicalistic philosophy analyzes down to a motive of resentment. Investigators report that sabotage and "putting the machine out of business" are the topics to which the road meetings turn. The group in all its characteristics is the poorest of raw material for labor organization. Shifting, without legal residence, undernourished as a universal rule, incapable of sustained interest, with no reserve of money or energy to carry out a propaganda, they cannot put forth the very considerable energy which coöperation demands. Their numerous strikes in California have been but flashes of resentment, and when their leaders in 1914 planned a great picketing of all the hop fields of the Sacramento valley, they found that their pickets after a week of patience began to slip onto freight trains

and disappear to the south. The needed two thousand dwindled to a handful and the " great strike " flickered out. Hopes are high for the 1915 season; agitation is rife, and numerous fires to date give evidence of " direct action " already carried out on the part of the I. W. W. It remains to be seen how far the 1915 tactics of the organization will embarrass the agricultural employers of California, but the word has gone out that " no crop is to be harvested " until the indicted hop pickers, referred to in connection with the Wheatland affair, are freed.

The migratory laborers as a class are the finished product of an environment which seems cruelly efficient in turning out beings molded after all the standards society abhors. Fortunately the psychologists have made it unnecessary to explain that there is nothing wilful or personally reprehensible in the vagrancy of these vagrants. Their histories show that, starting with the long hours and dreary winters of the farms they ran away from, through their character-debasing experience with irregular industrial labor, on to the vicious economic life of the winter unemployed, their training predetermined but one outcome. Nurture has triumphed over nature, the environment has produced its type. Difficult tho organization of these people may be, a coincidence of favoring conditions may place an opportunity in the hands of a super leader. If this comes, one can be sure that California would be both very astonished and very misused.

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THE INFLUENCE OF ECONOMIC AND INDUSTRIAL CONDITIONS ON INFANT MORTALITY

SUMMARY

I. The older view, that women's work in itself caused high infant mortality, 127. — Modern inquiries lead to doubt regarding the direct effect, 128. — II. Statistical Evidence: Boston, 129; Johnstown, 132; Birmingham (Eng.), 133; Fall River, 134. — III. Indirect Influences; pervasive example, 138. — Vitality of young women, 140. — IV. Influence of Housework, 141. — V. Influence of Poverty, 145. — VI. Conclusion, 150.

I. Introductory. Older and Modern Views

The relation between the rate of infant mortality and the proportion of women employed in gainful occupations was for the first time given serious consideration in the middle and early part of the last century, when the changes and readjustments following the industrial revolution had largely worked themselves out and the methods of the modern science of public health were brought to bear on conditions in the factory and industrial towns of England. The subject was discussed officially about 1860 in the reports of the investigations of Sir John Simon and his associates into the Sanitary State of the People of England, when it was shown, to quote the words of the report itself, " that in proportion as adult women were taking part in factory labour or in agriculture the mortality of their infants rapidly increased; that in various registration districts which had such employment in them the district death rate of infants under one year of age had been from two and a quarter to nearly three times as high as in our own

standard districts; and that in some of the districts more than a few of the infants were dying of ill-treatment." [1] Since the time of Simon and his associates much has been written upon the subject of women's work and its relation to infant and child mortality. Until recently the fact that in cities and communities where a large proportion of women are employed in gainful occupations the rate of infant mortality is generally excessively high has usually been pointed to and accepted as conclusive evidence of the influence of the employment of mothers on infant mortality.

Recent writers, on the other hand, have shown that this relationship is not necessarily one of cause and effect and that the method of studying the influence of the employment of mothers on infant mortality by correlating the proportion of women engaged in gainful occupations with the infant mortality rate is faulty and inconclusive. Phelps, particularly, in his recent study of Infant Mortality and Its Relation to Women's Employment in Massachusetts, has clearly shown that other adverse conditions present in the industrial cities of that state can just as well be held accountable for the high rate of infant mortality as the employment of women in industry. In commenting on the data supporting his conclusions, which space does not permit us to quote here, he says:

> It has often been customary, in approaching the subject of the employment of married women in its relation to infant mortality, to ignore the many other complex social and economic factors having a bearing upon the problem. The preceding tables show clearly that . . . certain of these factors which have in the past been ignored in the consideration of the problem are with fair uniformity coexistent with a high infant mortality rate; these being (1) a high proportion of foreign-born, (2) a high female illiteracy, and (3) a high birth rate. These factors operate with equal force over large or small areas . . . accompanying the infant death rate with almost perfect

[1] Quoted in George Newman, Infant Mortality, A Social Problem. London, 1906, p. 92.

regularity. The [other] factor, . . . the proportion of women engaged in extra-domestic occupations . . . is found, statistically speaking, associated very uncertainly, to say the least, with the infant mortality rate. . . . It will be seen that this result clearly disproves the contention that the extra-domestic employment of women is the dominant factor in determining the infant death rate, so far as these Massachusetts cities are concerned.[1]

Bearing in mind all the other factors of infant mortality which a high birth rate, a high proportion of foreign-born, and a high rate of illiteracy imply — large families, poverty, low standards of life, ignorance, bad housing and sanitation, and so on, — but to which the statistical method cannot so easily be applied for large areas, little room for doubt remains that there are many other adverse conditions in industrial cities which can with much less probability of error be held accountable for their excessive infant mortality rate than the employment of women in gainful occupations.

The *direct* influence of the employment of mothers in gainful occupations in any community on infant mortality is largely determined, not by the proportion of females ten years of age and over employed in such work, or even by the proportion of married women, but by the proportion of mothers who are at work during the infancy of their child or were at work during pregnancy. Little accurate information is available on this point, yet enough to show that the proportion of such mothers employed in gainful occupations does not account for the excessive mortality among infants in industrial cities.

II. The Statistical Evidence

In a house-to-house investigation recently made by the Research Department of the Boston School for Social Workers, of infant mortality in Wards 6, 8, 13,

[1] Infant Mortality and Its Relation to Women's Employment, in vol. xiii, of the Bureau of Labor's Report on Condition of Women and Child Wage-Earners in the United States. Washington, 1912, pp. 48–49.

and 17 of Boston [1] it was found that of 1,810 mothers from whom information on this point was secured, 101, or 5.6 per cent, were employed in some gainful occupation other than keeping boarders or lodgers either during pregnancy or for some time during the infancy of the child or during both periods. In a similar investigation by the federal Children's Bureau in Johnstown, Pa., out of 1,463 mothers visited only 3.1 per cent "went outside their homes to earn money." [2] Other figures are given in the Bureau of Labor's Report on Condition of Women and Child Wage-Earners in the United States. In the volume on the Cotton Textile Industry it is shown that of the married women employed in the cotton mills of New England and the Southern states only 19 per cent had children under three years of age.[3] In a similar manner other volumes show that the per cent of such mothers employed in the men's ready-made clothing industry (home finishers not included) was only 9.9,[4] in the glass industry, 14.1,[5] and the silk industry, 17.3 per cent.[6] The number of mothers with infants under one year of age is not given, but it must, of course, have been very much smaller — not more than a third of the number who had children under three at most.

These figures are also indirectly corroborated by the returns of the Massachusetts census of 1905. In this census it was found that of the 573,673 mothers in the state who had children of any age, only 63,400, or 11.1 per cent, were engaged in gainful occupations. The

[1] The writer is indebted to Dr. Jeffrey R. Brackett, Director, for the use of these and other figures quoted later from the results of this investigation which have not been previously published. The visits were made to the homes of infants born in 1910 by fellows in the research department during the academic years 1910–11 and 1911–12. During the second of these years this field work was done under the direction of the writer, supervised by the director of the research department, Dr. T. W. Glocker.

[2] U. S. Children's Bureau, Infant Mortality: Johnstown, Pa. Washington, 1915, p. 47.

[3] Vol. i. Washington, 1910, pp. 1016–1022.

[4] Vol. ii.

[5] Vol. iii.

[6] Vol. iv.

children of these mothers were not classified according to age or the number in each family, so that it is impossible to estimate from these figures the approximate proportion of mothers at work who had children under one year of age. Obviously, however, the proportion must have been small indeed.

Some additional data bearing on the proportion of women employed in gainful occupations during pregnancy is available from the Bureau of Labor's investigation of infant mortality in Fall River, Mass. Of the 580 children dying under one year whose families were interviewed, the mothers of 45.9 per cent were at work outside the home during pregnancy. Not quite half of these continued to work until less than three months of confinement.[1] The proportion of mothers employed during pregnancy thus was about equal to the birth rate among working mothers.

It appears from the available data that the proportion of mothers employed in gainful occupations in the cities and industrial communities of the United States who have children under one year of age ranges from 3 or 4 to 8 or 9 per cent. Probably it rises rarely much above 14 or 15 per cent, even in cities like Fall River where a large proportion of the female population is engaged in gainful occupations. The proportion of married women employed during pregnancy is greater than that of mothers employed during the first year after confinement, being probably about equal to the birth rate among married women who are habitually employed. Thus the available data, altho meager, seem to be sufficient to show that in this country the proportion of mothers employed in gainful occupations, while large enough to constitute in itself an important social problem is by no means large enough to account for the excessive infant mortality of industrial communities.

[1] U. S. Bureau of Labor Report, vol. xiii, pp. 72 and 111.

The conclusion can be drawn that in industrial cities and communities the employment of mothers is not the chief or dominant direct factor in the mortality of infants, that its direct influence has in the past often been exaggerated, and, finally, that it is simply one of the adverse conditions in such communities that produce the high rate of infant mortality. How important an adverse influence it is remains yet to be determined.

As has just been shown, only 3.1 per cent of the mothers visited in the investigation by the Children's Bureau into Infant Mortality in Johnstown, Pa., were found to have been engaged in gainful occupations outside the home. In the report of this investigation, however, all mothers who gained money by keeping boarders or lodgers were classed with the mothers who went out to work as "employed mothers." Thus, the data collected in this investigation apply, not to gainfully employed mothers in the strict sense, but to mothers earning money by keeping boarders or lodgers. The results of the inquiry are summarized in the following table showing the mortality rate for infants visited in the investigation, classified both according to the employment of the mother and the annual earnings of the father.[1]

Infant mortality:	Mother Gainfully Employed	Mother Not Gainfully Employed
Total	188.0	117.6
Annual earnings of father, under $521	247.6	263.2
" " " $521 to $624	150.9	160.7
" " " 625 to 779	127.1	102.3
" " " 780 or over, or ample[2]	166.7	93.1

[1] U. S. Children's Bureau, Infant Mortality: Johnstown, Pa. Washington, 1915, p. 49.

[2] The word "ample" was used to designate cases "where information concerning the father's earnings was not available and the family showed no evidences of actual poverty."

Examination of this table shows that the mortality rate among the infants born to the gainfully employed mothers was much higher (188) than the rate for those infants whose mothers had no money earning occupations (118). At first sight this would seem to indicate that the work which the gainfully employed mothers were engaged in had a decidedly adverse influence on the health and mortality of their babies. This conclusion cannot be drawn, however, because closer examination of the table at once shows that the fundamental difference between the two classes of families represented is not in respect to the employment of the mother but in respect to the amount of the annual earnings of the husband. By comparing the two groups as a class without subdividing them according to the amount of the annual earnings of the father, such effect as the employment of the mother may have on the problem is masked by the influence of poverty. To overcome this difficulty it will be necessary to consider only groups at least fairly homogeneous in respect to the father's income. Examining, therefore, the lower columns of the table it will be seen then in the first two groups, which contain almost 60 per cent of the gainfully employed mothers, the infant mortality rate was higher in the families where the mother was not gainfully employed than in those where she was. Only in the upper groups, where the father's income was $625 or over, and where the proportion of mothers who were gainfully employed was very small, was the rate higher among the employed mothers than among those not employed. This table, therefore, fails to prove that the employment of mothers in money earning occupations has a direct adverse influence on infant mortality. On the contrary, it would rather seem to indicate that in the poorer families where the earnings of the father are small the employment of mothers

in such gainful occupations as these may have a beneficial influence on infant mortality — by mitigating the evil effects of poverty.

The fact should be kept in mind, however, that the money-earning occupation of the Johnstown mothers was mainly that of keeping boarders and lodgers. It will be necessary to turn to the results of two other investigations to study the influence of the employment of mothers in factories and other places outside the home — one recently made in Birmingham, England, and the other in Fall River, Mass.

The Birmingham investigation was confined to St. Stephen's and St. George's wards of Birmingham, the two wards which contain the largest proportion of mothers engaged in gainful occupations.[1] Of the 3,777 mothers visited in the three years of the investigation, 1908–10, 1,657 were employed in gainful occupations, 1,441 being employed in factories and 675 elsewhere. The infant mortality rate was 173 among the children whose mothers were gainfully employed and 179 among those whose mothers were not so employed. In only one of the three years, 1909, was the rate higher for the children of the employed mothers (179) than for those whose mothers were not so employed (169). In no case was the difference in the rates great enough to indicate any direct relationship between infant mortality and the employment of mothers.

The most comprehensive American inquiry is that recently made by the federal Bureau of Labor into Infant Mortality and Its Relation to the Employment of Mothers in Fall River, Mass.[2] It differed in method

[1] Health Department of Birmingham (England), Report on Infant Mortality in St. Stephen's and St. George's Wards, 1911 (p. 7) and 1910 (p. 10). These families need not be classified according to the amount of the father's earnings, as they were sufficiently alike in this respect to be compared as a class.

[2] U. S. Bureau of Labor, Report on Condition of Women and Child Wage-Earners in the United States. Vol. xiii, part 2.

from the other three considered in that only infants who died during the year under consideration, 1908, and whose parents could be found by the agents of the bureau, were included. No births being included, therefore, the use of infant mortality rates based on the proportion of deaths to births was impossible.

The report of the investigation is divided into parts; the first, on Mother's Work Before Childbirth in Relation to Stillbirths and Infant Mortality, and the second, on Mother's Work After Childbirth in Relation to Infant Mortality. The following quotation from the report summarizes the conclusions of the first part.

> Summarizing the results of the study of the effect upon the children of the mother's employment before childbirth, the conclusion must be reached that in Fall River . . . no marked differences are discoverable between the children of mothers at home and mothers at work outside the home.[1] A slightly larger per cent of stillbirths was reported for the mothers at home, but the per cent of the stillbirths which could be traced to the mother's work was the same for mothers at home and mothers at work. The percentage of total deaths due to diseases of early infancy (indicating prematurity, immaturity, or defects) was higher for the children of mothers at home than for the children of mothers at work. . . . The mothers at work showed a slightly higher percentage of children not well and strong at birth. *It would appear then that the conditions which were found existing do not indicate that the work of the mother in the cotton mill before childbirth was producing results noticeably different from the work [housework] of mothers at home.* It must be borne in mind, however, that the two classes, mothers at work and mothers at home, are not sharply defined and that the group, mothers at home, includes a considerable number of women who were formerly engaged in millwork and whose physical condition may still be affected in some degree by such earlier employment.[2]

The following statement summarizes that part of the investigation dealing with the effect of the employment of the mother after confinement on infant mortality.

[1] Of the 314 mothers at home only 6 were engaged in a gainful occupation. See p. 101. The group of "mothers at home" can, therefore, be considered as one of mothers not employed in gainful occupations.

[2] Loc. cit., pp. 119–120. Italics added.

Only 83, or 14.4 per cent of all the children dying under one year concerning whom information was secured, were found to have been deprived of the mother's care because of her going to work. This per cent represents the extent of the possible effect of the mother's absence from home. But the extent to which the nursing of the child was affected is smaller than even this figure indicates, for in only 41 cases, or 7.9 per cent of all those whose feeding was reported, was the mother's nursing in any way affected by her absence from home, and in the 42 other cases she either failed to nurse because of disinclination or inability, or had discontinued nursing for reasons not in any way connected with her return to work.

But while the number and per cent of children affected by the mother's absence from home was small, yet the causes of death among this number as compared with the causes among children whose mothers remained at home, show strikingly the fatal effect of the mother's absence and the lack of her care and nursing. Thus, the proportion of deaths from diarrhoea, enteritis, and gastritis among the children whose mothers went to work (62.7 per cent) was over 80 per cent in excess of that of the children whose mothers remained at home (34.6 per cent). The real significance of this excess will not be fully realized until we recall . . . that for Fall River as a whole the death rate under one year from diarrhoea, enteritis, and gastritis, was two or three times what it was in many other localities.

The much higher mortality among the children of the mothers who went to work after childbirth is plainly due chiefly to the great extent of the absence of breast feeding and of the improper feeding and the additional evil influence of the withdrawal of the mother's care. Among the mothers at home only 34 per cent of the children were nursed exclusively; while 24 per cent were given solid food, and for 16 per cent condensed milk was the principal food. Among the children of the mothers who went to work only 1.2 per cent were nursed exclusively, while 40 per cent were given solid food, and for 30.5 per cent condensed milk was the principal food.

The causes of the excessive infant mortality in Fall River may be summed up in a sentence as the mother's ignorance of proper feeding, of proper care, and of the simplest requirements of hygiene. To this all other causes must be regarded as secondary.[1]

The results of these investigations, then, clearly demonstrate that the employment of mothers in gainful occupations is not the chief or even one of the more important direct factors in infant mortality. They also

[1] Loc. cit., pp. 168–169.

indicate that even in industrial cities like Fall River the proportion of mothers employed in gainful occupations at any particular time is by no means large enough to exercise directly the influence on infant mortality that has frequently been ascribed to it in the past.

On the other hand, these studies do not demonstrate that because the gainful employment of mothers is not the chief direct factor in the problem that it is a factor of little importance. How important a factor it is the studies, so far as we have followed them, do not indicate. Moreover, they are so limited in nature and scope that they can throw light only on the *direct* influence of the gainful employment of the mother during pregnancy, or after confinement during the infancy of the child, on infant mortality. They cannot adequately take into account the influence of the mother's employment during childhood and young motherhood; neither can they allow for the compensating influence of the mother's employment in housework at home, which when the family is large is often, as will be shown later, as hard and exacting as many forms of gainful employment; and, finally, to omit mention of other difficulties and limitations inherent in house-to-house investigations of the kind, they do not adequately consider the indirect influence of the employment of married women and mothers and the continued absence of housewives from their homes during a large part of the day on the home standards and the standards of infant and child care of the neighborhood and community. The subject is not so simple as our treatment of it so far would seem to indicate.

III. Indirect Influences

So far we have been dealing primarily with the direct influence of the employment of mothers in gainful occupations on infant mortality — that is, the effect which the work in which the mother is engaged has on the chances of survival of her own infant during the first year after confinement. We have only incidentally made reference to the indirect effect which the employment of a large number of mothers in gainful occupations in a community may have on the mortality of their neighbor's children. This aspect of the problem must now be considered with some care.

As has already been shown, the continual absence of the mother from the home either because she is engaged in some gainful occupation or for any other reason tends to lower the efficiency of the home as " a place for babies to grow up in "; and the same effect also follows, tho perhaps, to a less degree, when the mother is engaged in some gainful occupation within the home. Such employment of the mother may lower or impair the efficiency of the home in a number of ways, many of which have been pointed out already. It may deprive the baby of the mother's care without furnishing a satisfactory substitute therefor; it may necessitate the use of bottle feeding; it may prevent the mother from keeping the baby or the home in as cleanly condition as she might otherwise be able to do; and it may strengthen the tendency for the mother to lapse in the observance of the ordinary rules of hygiene and child care. Moreover, — what is especially important in this connection, — the influence of the employment of mothers in gainful occupations on the efficiency of the home may reach out to the homes of other mothers who are not engaged in any gainful occupation and may never have been, and

thus help to lower the general domestic and hygienic standards of the community.

This tendency was clearly evident in the four wards included in the Boston inquiry, where it was found that in spite of numerous individual exceptions the homes of the mothers who were not engaged in any gainful occupation did not as a class present any striking differences from the homes of those who were. The same condition has also been noted in other similar investigations.[1] This similarity in the homes of these two classes of mothers is probably the result of a number of influences, among the most important of which is the indirect influence of the employment of mothers and married women in gainful occupations on the general home standards of the community. All the families who live in a community help to create the general home standards for that community. The mothers who work do not create one standard for their families and those who do not work another somewhat higher for theirs.

In the light of this it is not surprising that the mortality rate for infants born to mothers who are engaged in gainful occupations does not vary markedly from the rate for those infants born to mothers who are not so employed. The truth of the matter probably is, not that the gainful employment of mothers does not affect the chances of life of infants born to such mothers, but that *it does not affect their chances exclusively*. The effect doubtless falls upon them and their homes first and most severely. But a condition which exists in a large proportion of the homes of a neighborhood, or of an entire city, will probably in time affect other homes also; and the case of the gainful employment of married women

[1] Thus, in the Birmingham report (1910, p. 5) it is stated that "the home conditions of those industrially employed do not differ to any large extent from those not so employed."

outside the home is no exception. While not subject to statistical demonstration, it is highly probable that in the cities of England and the United States where a large proportion of married women are engaged in gainful occupations, a condition has resulted that has lowered the standards of home life and child care of the entire city, at least of the factory neighborhoods. The influence of this factor of infant mortality is therefore not individual, in the sense that it affects only or principally those mothers who, during pregnancy or while having children under one year of age, are engaged in gainful occupations; it is social, in the sense that it affects all women regardless of the fact of occupation. "No man liveth unto himself and no man dieth unto himself."

Besides its influence upon home and community standards the employment of girls and young women in gainful occupations may exercise an important *indirect* influence on the rate of mortality of infants by sapping the strength and vitality of potential mothers and by affecting the training and education of the mothers of the next generation. The rate of infant mortality may be affected by the employment of women before marriage as well as during pregnancy or during the first year after confinement. Dr. Robertson, Medical Officer of Health of Birmingham, England, in the report on infant mortality in that city from which we have already had occasion to quote, lays great emphasis on this point. He says, "I regard as probably one of the most important influences of the industrial employment of women the obvious fact that girls and young women who are in industrial work for many hours daily can have but little time to make themselves practically familiar with the very numerous and often apparently unimportant matters which make all the difference between a well-ordered

home and one which lacks the influence of a capable mother." [1]

Since the employment of women and mothers in gainful occupations thus affects the rate of infant mortality indirectly in several ways, it is manifestly impossible to measure the influence of the employment of mothers on infant mortality by comparing the rate for the children whose mothers were employed during pregnancy, or during the first year after confinement, with the rate for those children whose mothers were not employed during these periods. To measure with any degree of accuracy the influence of any factor on the problem, the effect of that factor must be "isolated." It is impossible to "isolate" the factor of employment because it affects to a greater or less degree the entire community. There is still another reason, however, that seems also to show that the statistics quoted in the early part of this article, which on their face seem to minimize the importance of the employment of women in gainful occupations as a factor in infant mortality, are not conclusive. This other neglected factor of infant mortality must now be considered in detail.

IV. Influence of Housework

In past discussion the assumption has too often been made that the only kind of employment that can have an appreciable influence on the mortality rate of infants is gainful employment. Such an assumption, however, as will be evident from even a cursory examination of its basis, is false. Work is work and employment is employment, whether it be housework or factory labor; or whether it be in the mother's own home or in some other woman's home, whether it be for hire or simply to keep the mother's own house in order and her own

[1] Loc. cit., Report for 1910, p. 16.

family clothed and fed. Tho gainful employment is likely on the whole to have a more harmful influence on infant mortality than the employment of mothers in the performance of their own household duties, it does not follow that the influence of the latter can safely be disregarded.

A good example of the similarity of the influence on infant mortality of the employment of mothers in gainful occupations and in the performance of their own household duties is seen in the length of time the two classes of mothers left off work before confinement and began again afterwards. It was shown by the Fall River,[1] Boston, and Johnstown investigations that a considerable proportion of the mothers employed in gainful occupations did not stop work until less than two weeks before confinement (9 per cent in Fall River) and that a large proportion did not stop until a month before confinement (21 per cent in Fall River). This failure to stop work a sufficiently long time before confinement is generally recognized as a factor in infant mortality. But it is not a factor the influence of which is confined solely to the children of the gainfully employed mothers. Both the Boston and Johnstown investigations showed that a much larger proportion of the mothers employed only in the performance of their own household duties continued to work very close up to confinement. Moreover, the results of these investigations also show that both classes of mothers began work again too soon after confinement.[2] Thus the effect of this factor of infant mortality, altho probably exercising a more serious influence in the case of gainfully employed mothers, is present in the case of the children of mothers not gainfully employed.

[1] Loc. cit., p. 111.

[2] For Johnstown, see loc. cit., pp. 44–45. Of the mothers visited by the Research Department of the Boston School for Social Workers 21 per cent began work less than one week after confinement and more than 60 per cent less than two weeks.

It is not possible to compare the character of the work done by mothers who are employed simply in the performance of their own household duties with that of the mothers who are gainfully employed, in such a way as to measure the relative effect of each kind of work on infant mortality. Yet practically all of the recent investigations that have dealt with this phase of the subject have brought out the fact that the conditions under which mothers perform their household duties at home, and the amount and character of this work, are often such as to have an injurious effect on their own health and that of their babies. Thus in the Boston investigation it was found that the conditions under which the mother worked at home were often no better than those of the factory and in many cases the work itself was no lighter. Dr. Robertson also found a similar state of affairs to exist in his study of infant mortality in two wards of Birmingham, England, to which reference has already been made. The same condition is also alluded to in the report of the Fall River investigation. Thus "the character of the work . . . seemed to be as important an apparent cause of stillbirths among the mothers who were engaged at their own housework as among those who were employed in mills." Moreover, a slightly larger proportion of the children of "mothers at housework only" (54 per cent) were reported as "not well and strong at birth" than of "mothers at millwork" (53 per cent). In commenting on these figures the writer says:

> "The significance of these figures appears to be not in the slight excess of children not well and strong at birth, but in the fact that for the mothers at home the percentage is practically as high, plainly indicating that if there is an injurious effect of millwork, there must also be in many of these cases an effect almost in the same degree injurious resulting from the work at home." [1]

[1] Loc. cit., pp. 104, 110–111.

It is, thus, evident that the influence of the employment of mothers on infant mortality is not confined exclusively to children whose mothers are gainfully employed. The essential thing is the work which the mother has to do, not whether she is paid for her work or not. Where the hours are long and the conditions under which the work is done are inconvenient or unsanitary, where the work itself is heavy and exacting, and where it is continued close on to the day of confinement and begun again soon afterwards we may expect that in the long run the influence on infant mortality will be bad, whether the particular work done be the mother's own housework, some form of factory labor, or some other work for which she receives a definite wage.

All this is equivalent to saying that the figures presented in the previous section on the statistical evidence are inconclusive. If, first, the influence of gainful employment, so far from being confined exclusively to infants born to mothers who are gainfully employed during pregnancy or during the first year after confinement, affects indirectly, through its influence on home and community standards of child care, the chances of survival of infants whose mothers are not gainfully employed; and if, second, the influence of employment — that is, of the work which the mother does, is active in both groups, it is hardly to be expected that a comparison of the mortality rate of infants born to mothers who are employed in gainful occupations with the rate for those whose mothers are employed simply in the performance of their own household duties will yield any conclusive results. But still another difficulty with this method of measuring the influence of the employment of the mother on infant mortality remains yet to be considered. This arises from the close interrelationship of the influence of the employment of the mother and poverty.

V. Influence of Poverty

The relationship between poverty and infant mortality was first made the subject of statistical study by Charles Booth as a part of his investigation of East London. He classified the thirty-three residence districts of the city which were selected for study into three groups according to the proportion of the population living in poverty and in crowded quarters and compared the infant mortality rates for the groups. In the first group, which contained the largest proportion of the "poor and overcrowded," the rate was 169 deaths per 1,000 births; in the second group, containing the largest proportion of people of "the comfortable central class," it was considerably less (148); while in the third group which contained the largest proportion of the "upper classes," it was lowest of all (132).[1]

Later, in 1898, Rowntree made a similar investigation of "vital statistics of typical sections of the population of York, England," including infant mortality. He divided the population of the city into four classes and compiled the rate of infant mortality for each class. The rate for the "poorest working class" was highest of all, 247 deaths per 1,000 births; for the "middle working class" considerably lower, 184; for the highest working class lower still, 173; and for the "servant keeping class" lowest of all, 94.[2]

The objection to the method employed in both these investigations, altho not of sufficient importance to seriously weaken the conclusions drawn, is that the unit considered was not the individual family but selected areas. Later investigations have avoided this objection by comparing the infant mortality rates for different

[1] Charles Booth, Life and Labour of the People of East London, 1903. Final volume, pp. 26–27.

[2] B. S. Rowntree, Poverty; A Study of Town Life, 1901.

families classified by income. This method was used in the investigation by the Health Department of the City of Birmingham, England, in the investigation to which reference has been made several times already. Among the infants whose fathers were " out of work or earning less than one pound per week " the mortality rate during the two years of the investigation was 204 deaths per 1,000 births; while for the infants whose fathers earned more than one pound per week the rate was considerably less, 137.[1] Thus, in these two wards of the city, both of which were " occupied almost entirely by poor people," the infant mortality rate varied markedly with the wages of the father.

Before leaving the results of the British investigations of this phase of the subject attention should at least be called to the tabulation which the registrar-general of England and Wales made in his last annual report showing the relationship between infant mortality and the father's occupation.[2] The results, altho they cannot be quoted in detail, showed quite clearly the effects of poverty and its accompaniments on infant mortality, since everywhere the rate of mortality was higher among the babies whose fathers were employed in the poorly paid occupations than among those whose fathers were better paid.

The best as well as the latest American investigation of the relation between poverty and infant mortality was made by the federal Children's Bureau as a part of its comprehensive study of infant mortality in Johnstown, Pennsylvania. The data gathered in this inquiry are of especial value in this connection, since all the babies born in the city during the year of the investigation were included, not simply those born in a particular

[1] Report on Infant Mortality in St. Stephen's and St. George's Wards, 1912, p. 11.

[2] Registrar-general for Births, Deaths, and Marriages in England and Wales, Annual Report for 1912.

section or in relatively poorer families. The results are summarized in the following table, which shows the mortality rate per 1,000 births for the infants included in the investigation, classified according to the annual earnings of the father: [1]

	Number of Births	Infant Mortality Rate
Total	1,431	130.7
Annual earnings of father, under $521	219	255.7
" " " $521 to $624	165	157.6
" " " $625 to $899	385	122.1
" " " $900 to $1,199	138	101.4
" " " $1,200 or more	48	83.3
" " " "Ample"	476	84.0

Thus the infant mortality rate varies closely with the amount of the annual earnings of the father. For the infants whose fathers earned less than $521 annually the rate was twice as great as that for infants whose fathers earned between $625 and $799 annually, and three times as great as the rate for those infants whose fathers earned $1,200 or more. The relationship is a very close one — as close a one as one can well expect to find in vital statistics. The question remains for determination: is the relationship between poverty and infant mortality as close a one as the relationship between the employment of the mother and infant mortality?

As has been shown already, families in which the mother is gainfully employed differ radically in respect to the father's income from those in which the mother is not so employed. Thus, 48 per cent of the husbands included in the Johnstown investigation who received less than $521 annually had wage-earning wives, in comparison with 33 per cent of those who received from $521 to $624, and 22 per cent of those who received from $625 to $779 a year. Only 9 per cent of the husbands who had

[1] U. S. Children's Bureau, Infant Mortality: Johnstown, Pa. Washington, 1915, p. 46.

an annual income of $900 to $1,199 a year had wage-earning wives and only 2 per cent of those whose income was $1,200 a year or over.[1] It is, of course, to be expected that the great majority of wage-earning mothers should have husbands whose annual earnings are small. But the significance of this fact in relation to the influence of the employment of mothers in gainful occupations on infant mortality has by no means always been fully appreciated. It may seem that in one sense the employment of mothers in gainful occupations is not so much a cause of the high rate of infant mortality as it is a sort of remedy for the adverse influence of poverty. Before going further into this subject, however, it will be necessary to compare, as far as the difficulty of distinguishing the effect of the one from the other makes possible, the relative influence of these two factors on the problem. Such a comparison is possible from the figures quoted in the following table from the reports of the Birmingham, England, and the Johnstown, Pa., investigations showing the mortality rate for infants classified both according to the annual earnings of the father and the employment of the mother:

	Mother Gainfully Employed	Mother Not Gainfully Employed
JOHNSTOWN[2]		
Total	188	118
Annual earnings of father, under $521	248	263
" " " $521 to $624	151	161
" " " 625 to $779	127	102
" " " 780 or over, or ample	167	93
BIRMINGHAM[3]		
Total	176	170
Out of work or less than one pound weekly	208	195
More than one pound weekly	118	152

[1] Loc. cit., p. 48. [2] Ibid., p. 49. [3] Ibid., 1912, p. 11.

A careful examination of the figures seems to indicate that the influence of poverty in these families is much greater than that of the employment of the mother. In Birmingham the infant mortality rate varies very slightly with the employment of the mother, while the variation with the earning capacity of the father is marked. This latter fact is especially significant when it is remembered that the families visited did not vary greatly as to income, the two wards included being "occupied almost entirely by poor people." In Johnstown, also, the amount of the father's annual earnings seems to vary more closely with infant mortality than with the employment of the mother. Moreover, as has been shown already, it is very probable that the higher rate shown in the table for the children of the gainfully employed mothers is produced, not by the influence of gainful employment at all, but of poverty. It must not be forgotten that the mothers who were gainfully employed were for the most part living in poverty while those who were not so employed were in comparison relatively well-to-do.

As Dr. Robertson says in commenting on the results of the Birmingham inquiry, "the life of the mother among the poorer classes is always a strenuous one if the family is large. . . . It does not matter much whether the mother is industrially employed or not . . . if poverty is great the infant suffers. . . . From the tables [given in his report] it is seen that the influence of poverty . . . on the infant mortality rate is far greater than that of industrial employment." To this conclusion the present writer must subscribe, for all the data presented tend to emphasize the fundamental importance of the relationship of poverty to infant mortality.

The relation of poverty to hygienic and home conditions remains to be pointed out, altho this is not the

place for an adequate discussion of this phase of the problem. As an experienced English medical officer of health writes to Dr. Newman, — " Infant mortality in Lancashire is, I am sorry to say, as much a financial as a hygienic question. . . . A weaver's wages will not allow of the wife's remaining at home, considering rents and rates, and so both go — which is the rule — and a hand to mouth existence results even for themselves, let alone the little ones. . . . Much good may be done by hygienic tuition, but I am certain that the root of the whole matter with us is, as I have said, comparatively low wages and high rents and rates," [1] — or, as one would say in America, low wages and a high cost of living.

VI. Conclusion

It appears, then, that the fundamental cause of the excessive rate of infant mortality in industrial communities is poverty, inadequate incomes, and low standards of living with their attendant evils, including the gainful employment of mothers. The employment of the mother in gainful occupations is simply the remedy for these evils or " adverse conditions " which the working people in industrial communities have adopted. Undoubtedly, this recourse has had an important effect on the problem, in many cases actually tending to reduce the rate of infant mortality, while in others having just the opposite effect. The primary question in considering the social causes of infant mortality is whether the employment of mothers and married women in extradomestic occupations is, from the viewpoint of society as a whole, a good remedy for poverty and an acceptable means of mitigating its influence on the health and mortality of babies and young children. From the point of view of

[1] Quoted in Newman's Infant Mortality. London, 1906, pp. 137–138.

the individual poor or poverty stricken family, the fact cannot be escaped that this effect may be both good and bad: bad, in that it causes the baby to be artificially fed, forces the mother to be absent from home, and in other ways lowers her efficiency as a mother; good, in that it increases the family income and decreases the influence of poverty. We are, thus, forced to conclude that the fundamental economic and industrial factor of infant mortality is low wages. The fundamental remedy is obviously higher wages. Other remedies, such as legislation restricting or regulating the employment of mothers before and after confinement,[1] day nurseries, the instruction of mothers and school girls in domestic economy, and the like, all have their place; but the chief thing remains the provision of an adequate family income.

HENRY HORACE HIBBS, Jr.

[1] In commenting on this phase of the problem, Dr. Robertson, in his Report on the Industrial Employment of Married Women and Infant Mortality in St. Stephens and St. George's Wards, Birmingham, England (for the year 1910, p. 21) says: "It appears to be a question in this Birmingham area whether the additional poverty which would be occasioned by preventing mothers from working for, say, six months after a birth, would not be the greater of the two evils."

SOCIAL INSURANCE, OLD AGE PENSIONS AND POOR RELIEF

SUMMARY

Review of previous discussions of German evidence, 153. — The method of attack, 158. — Estimate of saving in poor relief arising from old age insurance benefits, 160. — Decline of aged pauperism in England due to pensions, 165. — Effect of pensions on thrift, 169.

In the early discussions on the question of introducing compulsory insurance in Germany, mention was often made of the effect such legislation would have in reducing the expense of relief of the poor. An enumeration of persons in receipt of relief in Germany in 1885 showed that 46 per cent applied for aid because of accident, sickness, invalidity and old age.[1] A measure that should insure the working classes against these contingencies, ought, it was urged, to reduce materially the budget of poor relief.

Of a population of 64,551,000 in Germany in 1910, 14,000,000 were insured against sickness, 24,200,000 against accident, and 15,700,000 against invalidity and old age. An annual sum of nearly $175,000,000 is paid out each year in benefits. Have these payments caused any reduction in poor relief expense? Has there been any diminution of cost of poor law administration? Can any statistical proof be secured of a tendency to decline in the number of applicants for assistance?

[1] Accident was the cause of pauperism in 3.2 per cent of the total cases enumerated; sickness, 28.4 per cent; old age, 14.9 per cent; a total of 46.5 per cent for these three causes. In addition, 17.5 per cent were caused by death of breadwinner. F. Zahn, "Arbeiterversicherung und Armenwesen in Deutschland." Archiv. für Sozialw. und Sozialpol., vol. xxxv, p. 423.

Statistics of expenditure for poor relief in Germany show not a decline but a steady and considerable increase since the passage of the insurance laws. For example, in Bavaria the cost of relief per 100 inhabitants increased from 159.1 marks in 1897, to 178.9 in 1902 and 202.3 in 1906.[1] For the city of Berlin, the expenditure for public relief purposes increased from 2.32 marks per capita in 1884, to 2.39 in 1890, 3.06 in 1893, 3.48 in 1897, 3.75 in 1900, 4.23 in 1905; and it reached 4.75 in 1909.[2]

The earliest investigation into the relation between insurance and pauperism was made by the German Poor Law Association in 1893.[3] Inquiries were sent to the boards of poor relief in a large number of cities and towns and in the country districts. Many replies were incomplete and useless. The attempt to get complete statistics proved a failure. On the whole the expenditure showed no marked tendency either to increase or decrease. Some towns and cities reported a diminution in the cost of care of the sick and savings in other special branches of relief traceable to insurance legislation; others found no effect. Several replies suggested that a decided increase was to be expected when the old age and invalidity law had been in force for a longer period and the aged population then enjoying relief had died out.

A government investigation was made soon after, partly as a result of the inquiry of the German Poor Law Association.[4] Little was added in the way of definite

[1] Zahn, Archiv. für Sozialw. und Sozialpol., vol. xxxv, p. 434.

[2] Ibid., pp. 466–467.

[3] Richard Freund. Armenpflege und Arbeiterversicherung. Prüfung der Frage, in welcher Weise die neuere soziale Gesetzgebung auf die Aufgaben der Armengesetzgebung und Armenpflege einwirkt. Schriften des deutschen Vereins für Armenpflege und Wohltätigkeit, Heft. xxi, 1895.

[4] Vierteljahrshefte zur Statistik des Deutschen Reichs, 1897, Heft. ii, pp. 1–54. Die Einwirkung der Versicherungs-Gesetzgebung auf die Armenpflege.

statistical material. Such additional figures as were obtained on the expense of poor relief showed no marked tendency either to increase or decrease. The chief value of the inquiry was the collection of opinions from the administrators of relief. A large majority favored the view that but for insurance and its benefits the expenditures for relief would have been larger. Professor H. W. Farnam, writing in 1904,[1] pointed out that in many cases where this impression was voiced both the number of paupers and the expense of relief had increased. "Yet, when we come to ask whether there has been a diminution either in the number of paupers or in the amount spent for them, it appears that 58 per cent [of the officials and boards replying] state that there has been no such diminution."[2] It should be added that the returns in both these inquiries were fragmentary; and possibly the poor law unions where a diminution of expense traceable to the insurance laws had appeared would be more likely to answer than unions where no such change had occurred.

Other investigations have been made by Ayers (1901),[3] Grünspecht (1907),[4] and Zahn (1912).[5] Ayers secured a few data in the same manner as in the earlier investigation, through a questionnaire. He defended the thesis that since the enactment of the legislation for social insurance poverty had not increased as fast as the population.

[1] H. W. Farnam, "The Psychology of German Workmen's Insurance," Yale Review, vol. xiii, 1904–05, pp. 98–113.

[2] Ibid., p. 103.

[3] E. E. Ayers, Arbeiterversicherung und Armenpflege (Dissertation), Berlin, 1901.

[4] D. Grünspecht, "Die Entlastung der öffentlichen Armenpflege durch die Arbeiterversicherung." Jahrbücher für Nat.-Oek., 3d series, vol. xxxiii, pp. 63–88; 364–378.

[5] F. Zahn, "Arbeiterversicherung und Armenwesen in Deutschland." (Unter Mitberücksichtigung der neuen Reichsversicherungsordnung. Archiv. für Sozialwis. und Sozialpol., vol. xxxv, 1912, pp. 418–486. Also in Zeitschrift des Bayerischen Statistischen Landesamts, 1911, pp. 1 ff. Also in Transactions of the Fifteenth Intern. Congress on Hygiene and Demography, Washington, 1912, vol. vi, pp. 271–321.

Grünspecht brings forward all the statistical material thus far available and treats each branch of insurance separately. He finds in the following figures for Saxony indication of a decrease of expenditure for sickness:

CASES AIDED PER 10,000 OF THE POPULATION [1]

Year	Permanent Sickness	Temporary Sickness
1880	33.30	51.00
1885	31.50	36.40
1890	28.80	25.30

The effect of sickness insurance is most evident in relief of temporary sickness, as would be expected. The frequency of relief in 1890 was about half as great as in 1880.

Similar figures for relief given to victims of accident in Saxony show a marked decline.

CASES RELIEVED BECAUSE OF ACCIDENT PER 10,000 POPULATION [2]

Year	Permanent Relief	Temporary Relief
1880	5.5	2.7
1885	5.2	2.3
1890	2.8	1.1

A further indication of a tendency to lessen the cost of relief is found in the decrease of burials by poor law authorities. This decrease is due mainly to the funeral benefit of sickness insurance, to a less extent to that granted under the accident insurance law. The data, which Grünspecht gives, are taken from the investigation of the German Poor Law Association and apply to a few towns and cities only. In most cases the decline is greater for men than for women, a result to be expected if the decline were due to insurance benefits, since more men than women are insured. Further corroboration of a diminution of poor relief is sought in the decrease of the number of orphans cared for in towns

[1] Grünspecht, op. cit., p. 74.

[2] Ibid., p. 88. Accident probably includes non-industrial as well as industrial accidents.

included in the inquiry of the Association. No attempt is made to give figures for any saving in expense of relief for invalidity and old age.

Zahn adds some new direct statistical evidence. He gives figures for the sums which the poor relief authorities have received from insurance institutions in return for temporary relief furnished to persons afterwards granted pensions, and in reimbursement for the care of pensioners in poor relief institutions. In 1909 these sums were as follows: [1]

AMOUNTS RECEIVED BY POOR LAW ADMINISTRATIONS FROM INSURANCE INSTITUTIONS

City	For Ordinary Benefits	For Care of Pensioners
Munich	$441	$5,299
Nuremberg	634	3,307
Düsseldorf	16,150	10,614
Hamburg	55,636	29,693
Berlin	$61,164	

It is fair to assume that the poor relief expenditure would have been greater by these sums had not the insurance institutions paid them out of their resources.

For the increase in expenditure for relief, Zahn gives many reasons. A large part of the increase in absolute expense is explained by the growth of population, which was 36.5 per cent in the period from 1882–1907. The greater part of this increase fell to the working classes, *i. e.*, those lowest in the economic scale. The growth has been accompanied by a movement to the large cities; and this movement affects poor relief expenditure in two directions. Persons who are born in the city furnish a less proportion to the pauper population of the city than persons moving in from the outside. Relief given in cities is usually more liberal than in the country dis-

[1] Zahn, "Arbeiterversicherung und Armenwesen," Archiv. für Sozialw. und Sozialpol., vol. xxxv, pp. 448–450, from tables.

tricts, which are poorer. Widows and orphans — classes figuring largely in receipt of relief — were neglected in the insurance legislation prior to 1911. Part of the increase in expense is due to additional burdens which have been laid on the poor law unions, notably for the care of the blind, insane, imbecile, epileptic, etc., and for the care of dependent minor children.

The increase in expenditure is due in part, also, to a willingness of the poor law authorities to give a more liberal relief to the needy, and to measure a minimum of subsistance more generously. The social spirit which prompted the insurance legislation and has been realized in it works to make more humane the administration of relief. There has been a separation of poor relief proper from what Zahn calls a modern social-hygienic provision for the poor. "The guiding principle in Germany, in contrast to that of England and America, where the emphasis is laid on indoor relief and on the workhouse principle, is more and more the aim of keeping open the way for the poor to return to economic independence, of making it as easy as possible, of protecting the feeling of honor, by preserving as far as possible the external appearance of economic independence of persons in receipt of relief." [1]

What is the relation between government insurance and pauperism? It seems clear at the outset that persons who receive adequate pensions through insurance should not have to apply for relief. A workman disabled in an industrial accident receives medicines and medical attention and a pension of two-thirds of his "annual earnings." [2] A widow is given 20 per cent of the annual earnings, and 20 per cent additional is

[1] Zahn, op. cit., p. 480.

[2] Annual earnings: only one-third of the yearly wages in excess of 1800 marks is counted in determining the "earnings" in the meaning of the law.

allowed for each child under fifteen up to a maximum for all survivors of three-fifths of the wages. In case of sickness, medical aid is furnished, besides a sickness pension equal to one-half of the local daily wage for unskilled labor. Invalidity pensions, which now average $44 a year (varying with the number and amount of the contributions) are given to workmen who have paid contributions for five years and are unable to earn one-third of the usual wage in the occupation. Old age pensions are granted to workmen over 70 who have paid thirty years of contributions, or since 1891. Funeral benefits are paid in both sickness and accident insurance. With the possible exception of invalidity benefits, these provisions should in most cases be adequate, at least measured by poor relief or minimum of subsistence standards.

What is the effect on poor relief? It is sought to prove by an examination of statistics of relief that there has been a diminution of expense due to insurance legislation. The first step to an answer is to settle on the right method. Shall we study the trend of total expenditure, or of expenditure for a special field of relief; the trend of the total numbers of persons relieved, or of the numbers aided in a definite branch of relief? To examine the trend of expenditure of different states or cities is to introduce so many variants into the problem that no safe conclusion can be drawn as to the diminution of cost due to insurance. Even the expenditure for a particular branch of relief is apt to be indefinite; increases in the cost of living, variations in the measure of a minimum of subsistance, changes in the extent and quality of relief, may obscure any reduction ascribable to insurance.

The difficulty with a study of poor relief by numbers assisted or by causes of pauperism is that there are

almost no statistics classified by causes and numbers assisted. No imperial inquiry has been made since 1885. But few intensive studies have been made, and these for such small areas that broad conclusions could not be based on them. Furthermore they do not cover any extended period of time.[1] A thoro analysis of the numbers of persons applying for relief because of accident, sickness, invalidity or old age can not be attempted.

Even if statistics were available, an additional difficulty would be to secure a proper basis of comparison. Is the saving shown " large " or " small "; a good showing or a poor one ? It is useless to compare sums saved in one branch of relief to the total value of benefits of insurance or to the total cost of poor relief. The sums saved should be compared with the maximum possible under the conditions. In order to arrive at a judgment as to the importance of a diminution in cost, some sort of preliminary approximation must be made to determine what maximum was to be expected.

Most of the disappointment with the results of examination of poor relief statistics is due to a misconception of what can be shown. Statistics of poor relief expenditure will not show how much was " saved " *i. e.*, not spent! The best that can be hoped is to find a reduction of expense at some point of time. Statistics will not show directly how many more persons would be in receipt of relief if it were not for insurance benefits; the best that can be expected is to find an indication of a reduction in the number of persons aided. The amount saved can be determined only by estimate.

[1] Notably such studies as H. Rettich, " Die Stuttgarter Armenbevölkerung im Lichte der Statistik, Württ." Jahrb. für Statistik u. Landeskunde, 1897, Heft. iv; and Singer, Armenstatistik Münchens, Untersuchung über die persönlichen Verhältnisse der von der Armenpflege unterstützten Personen im Jahre 1906. See further article by Kollmann on Armenstatistik, in Die Statistik in Deutschland ed. by Zahn, 1911, vol. ii, pp. 675–733.

A study of the relation of old age insurance to old age pauperism will indicate the method to be employed. Pauperism of the aged can be studied wherever an age classification of paupers admits. Old age is a frequent cause of pauperism. A very high proportion of persons over seventy are forced to seek relief. In England, in 1906, twenty-three per cent of those seventy and over were paupers. The chief advantage of studying the effect on aged pauperism is that the situation in Germany can be compared with that in England, where old age pensions have been given to a large proportion of the aged population. A fairer idea can thus be formed of the diminution in poor relief cost that can reasonably be expected.

How much saving in cost of poor relief was to have been expected from the grant of pensions to persons over seventy in Germany? The immediate reduction in expense would depend on the number of persons in relief who were enabled to dispense with all or part of it after receiving pensions. In 1885, 14.9 per cent of all paupers required assistance because of the "infirmity of age." The aged paupers represented 5.12 per thousand of the total population. Of these perhaps two-thirds may be estimated to have been over seventy years of age — three per thousand of the total population. In 1891 there were granted 132,926 old age pensions to persons over seventy — 2.69 per thousand of the total population, and 9.6 per cent of the population over 70. One in ten of the aged population was pensioned and one in seven or one in eight was a pauper. If all the pensions had been given to paupers poor relief would not have been entirely eliminated among the aged. In how many cases were the pensions given to the paupers?

The pensions were given without previous contribution on the part of the recipients to persons over seventy

who could prove that they had worked in an employment subject to insurance under the law for the three years prior to 1891. Sixty-one and six-tenths per cent of these pensions went to men. Of the paupers over seventy about two-thirds were women, mostly widows. Many occupations of the lower grade, from which an unusually large number of paupers are recruited, are not subject to insurance. Servants, (Dienstmänner) and porters were declared to be independent workers and not required to insure; nor were washwomen, seamstresses, dressmakers, ironing women, if they worked in their own homes. Casual and irregular workers were excluded. Home workers were likewise exempted, except in the tobacco (1891) and the textile trades (1894).[1]

To what extent would an old age or invalidity pension enable the recipient to dispense with relief? Figures for out-relief given in Munich (1906) to 1564 persons over seventy show the following distribution:[2]

Monthly Relief	To Persons Living Alone	To Families, Including Cases where there was a Contribution for Education in Addition to Relief
Marks 2– 5	94	18
" 6–10	594	97
" 11–15	556	68
" 16–20	15	79
" 21 and over	..	43
	1,259	305

(101 of these received old age pensions, of whom five received less than 10 marks; 81, 10–15 marks; and 15 from 15–20 marks.)[3]

Old age pensions averaged 124 marks per year in 1891 and 164 marks in 1910; invalidity pensions averaged

[1] Handwörterbuch der Staatswissenschaften (2d edition), vol. iv, pp. 1363–1365.

[2] K. Singer, Armenstatistik Münchens, Untersuchung über die persönlichen Verhältnisse der von der Armenpflege unterstützten Personen im Jahre 1906, p. 23.

[3] Ibid., p. 22.

113 marks in 1891 and 177 marks in 1910. From these figures it would seem inferable that if pensions of average amount were given to all these aged persons in the form of out-relief, from one-half to three-fourths would be able to dispense with aid, except in case of sickness or where there were dependents.

An immediate reduction in expense would take place equal approximately to the allowances of those in relief who were pensioned. Even tho not many actually receiving relief should be awarded pensions, the influx of persons on the pauper line from the pensioners of all ages over seventy would be practically stopped. With a normal death-rate and a normal exodus from relief, the reduction would be most rapid at first and would be substantially at an end within a few years, if no change in the conditions of grant and in the number of pensions occurred. The reduction in the numbers of those relieved would take place at once; the saving would be an annual sum equal approximately to the pensions of those in relief.

The figures of the German Poor Law Association for 1893 offer the best indication of the immediate reduction in poor relief of the aged. For twenty-four large cities, 854 out of 6692 pensioners, or one-eighth, were in receipt of relief. For fifteen middle-sized cities, 145 out of 664 were receiving aid, or 22 per cent; for thirteen small places, 39 out of 352 received relief, or one-ninth. Of 932 pensioners in relief in twenty-six large cities, 387 were enabled to dispense with aid entirely and 228 others partially. Somewhat over half were not as much of a burden on the poor law authorities as before. One hundred and eighteen persons were forced to apply for aid while the application was pending; and 121 after receiving a pension had to be assisted in addition. For the middle-sized cities, of the 145 pensioners in

relief, sixty could dispense with it entirely, and twenty-four others partially; again somewhat more than one-half of the possible cases represented a lessening of the burden of relief. Eleven persons had to be aided while the application for pension was pending, and thirteen required aid after the pension was granted. For the smaller places the proportion of those needing no relief or less relief than before receiving a pension was much higher. Of thirty-nine in relief, twenty-five no longer needed assistance and six more did not require as much as before. In two-thirds of the cases could relief be diminished. But twenty persons had to be aided while the application was pending and ten pensioners had to be relieved after the pension was granted.[1]

These figures give a fair indication of the reduction in poor relief made possible by old age insurance. From 12 to 22 per cent of the pensions were given to persons who needed relief. The annual saving can therefore be estimated roughly at from one-eighth to one-fourth of the total amount paid in pensions. Tho a large proportion of pensioners in relief still required aid, yet the aid would have had to be greater but for the pension, and part at least of the pensions paid to those who were enabled to dispense with relief was saved to the poor law authorities.

Any further reduction in poor relief expenses would depend on a change in the conditions or in the number of pensions. If a normal proportion of the pensions originally granted were given to persons in receipt of relief, and the proportion of persons over seventy who received pensions remained constant and the conditions of insurance remained the same, there would be no further reduction in expense. The conditions of insurance have remained approximately the same. One or two more

[1] R. Freund, Schriften des Vereins für Armenpflege und Wohltätigkeit, Heft. xxi, passim.

occupations have been included in the insurance system. Payment of a certain minimum number of contributions every year since 1891 is required to maintain a contingent claim to a pension. Invalidity pensions have been substituted largely for old age pensions, especially since the former are now larger on the average than the latter. The proportion of pensioners to the population over seventy has probably increased. In 1897, the year of the maximum number of old age pensions, 13.8 per cent of the aged population were pensioned. It may be estimated that there are now somewhere between 16 and 26 per cent of the population over seventy who receive either old age or invalidity pensions.[1] Furthermore the average amount of pension is slightly greater.

If we suppose the present aged population without insurance benefits, a certain proportion that now do not need relief would be forced to apply for it. If, then, pensions of the current amount were granted to those who now receive it, the total saving in poor relief expenditure would be equal roughly to the pensions of those in relief: part would still require additional aid, and part would be able to dispense with it. An immediate reduction would take place in the number of aged paupers, the saving would be an annual sum equal to the cost of relief formerly afforded the pensioners.

Figures for 1910 for a large number of cases indicate that on the average 6 per cent of the pensioners require relief in addition.[2] A pensioner might require extra

[1] No statistics of invalidity pensioners showing the age distribution are published. Twelve per cent of new pensions for invalidity were given to persons over seventy in 1910. The same year in Berlin 6,609 out of 30,721 invalidity pensioners or 21.5 per cent were over seventy. Assuming that 20 per cent of all invalidity pensioners were over 70, there were approximately 16 per cent of the population of Germany pensioned. If 40 per cent of the invalidity pensioners were 70 and above, there would be about 26 per cent of the aged population pensioned.

[2] See Zahn, op. cit., p. 455. The proportion in the different districts varied from 3 to 12 per cent. For Berlin the figures were much higher. A test count of some thousands of pensioners showed that 16 per cent of the male and 20 per cent of the female invalid pensioners received aid; 8 per cent of the male and 19 per cent of the female old age pensioners required additional relief, ibid., pp. 450–451.

relief in case of sickness, if he had persons dependent on him, or in case he had to be cared for in some poor relief institution. It may be estimated that for the 6 per cent who still require relief there are two to three times as many who would need assistance but for the pension. A basis is thus afforded for a rough — a very rough — estimate of the annual saving to poor relief resulting from insurance. On this basis the saving can be placed conservatively at at least one-eighth of the total amount given in pensions to persons over seventy in Germany.

The question of the diminution of pauperism has also been raised in connection with state old age pension systems. Allowances are given to aged persons in England, Australia, New Zealand, etc., on a much more generous scale than the pensions in Germany. Contrast the average pension of $44 in Germany with the yearly payment of $63 in England and the average of $121 in New Zealand. Of the population over 70 in 1912, 58.8 per cent were pensioned in England and Wales; 68.4 per cent in Ireland; 34 per cent in Australia and New Zealand, as compared to an estimated 16 to 26 per cent in Germany. An examination of the relation of pensions to pauperism will give much clearer evidence of the disburdenment of poor relief than under an insurance system.

Old age pensions were first granted in England in 1909. Prior to 1911 persons receiving relief were disqualified from securing pensions. The effect of pensions on relief prior to 1911 would be due simply to the decrease in the number of persons seventy and over who were enabled by the grant not to apply for aid. Unfortunately statistics of paupers over seventy are at hand only for 1906, 1910, 1911, 1912 and 1913. From 1906 to 1910 the proportion of paupers to the population over

seventy fell from 23.0 per cent to 18.6 per cent. This may be due entirely to the effect of pensions or may be partly due to a gradual decline in aged pauperism; probably the larger part is due to the pensions.

In 1911 the amendment went into force by which persons receiving relief were entitled to pensions. The full effect does not appear in the figures till the following year. The number of indoor paupers over 70 years of age decreased from 57,701 in 1910 to 49,370 in 1912. Outdoor relief has almost ceased. On January 1, 1910, 138,223 persons were relieved, and on the 4th of January, 1913, only 8,563. There was a decrease of 19.8 per cent in the number of indoor paupers over the figures for 1906, and of 94.9 per cent in the number of outdoor paupers.

In the expenditure for out-relief a decrease may be traced of approximately £500,000 for the half-year ended September 30, 1911 over the corresponding half-year of 1910. The cost of out-relief dropped from 11¼ to 7½ pence per head of population.[1] Here is a marked decrease in the cost of relief and in the number of persons relieved, traceable directly to a change in the old age pension law.

Even without the amendment of 1911 a large decrease would ultimately have appeared. Pensions given to persons over 70 would have eliminated practically all the cases where persons over seventy seek out-relief, and a third of the cases where indoor relief would have to be given. The aged paupers would then represent those who were in receipt of relief on reaching the age of seventy.

[1] The cost of out-relief decreased from £1,678,358 for the half-year ended September 30, 1910 to £1,143,983 for the half-year ended September 30, 1911. See Parliamentary Papers, Poor Relief (England and Wales), Statement for the Half-Year Ended 30th September, 1912, No. 111, p. 8 (vol. lv of 1913 Parliamentary Papers).

DECREASE IN AGED PAUPERISM DUE TO OLD AGE PENSIONS[1]

Year	Paupers over Seventy Years of Age in England and Wales			Estimated Population 70 and Over	Per cent Paupers
	Indoor	Outdoor	Total		
Mar. 31, 1906...	61,378	168,096	229,474	997,653	23.0
Jan. 1, 1910...	57,701	138,223	195,924	1,052,440	18.6
" 1, 1911...	55,261	93,177	148,438	1,071,702	13.9
" 1, 1912...	49,370	9,530	58,900	1,089,964	5.4
" 4, 1913...	49,207	8,563	57,770	1,108,226	5.2
Per cent decrease, 1906–1913:	19.8	94.9	74.8		

The saving in expense of poor relief may be estimated as follows. Assuming that the proportion of paupers in 1906 was a normal one, in 1912 there would have been 67,000 indoor and 183,500 outdoor paupers, instead of 49,370 and 9,530 respectively. At an average expense of $65.50 (1911)[2] for indoor and $30.13 for outdoor paupers the total amount "saved" in 1912 was $6,400,000. If old age pauperism had been completely eliminated, the total saving on the same assumptions would have been approximately $9,900,000.

To secure this reduction of relief, old age pensions aggregating £7,948,016 or $38,000,000 were paid.

The decrease in the expenditure of poor relief is in no sense a primary object of the grant of pensions. To spend $38,000,000 with the sole object of saving $6,400,000 would be folly. The average cost per out-

[1] Old Age Pensioners and Aged Pauperism, London, 1913. Accounts and Papers, Cd. 7015, p. 3. The population is estimated for the first of April of each year, on the basis of an arithmetical increase of population between censuses.

[2] Average for all classes of paupers, England and Wales. Comparative Statement of Pauperism and Cost of the Relief of the Poor in Certain Years from 1848–49 to 1911–12, Cd. 6675, London, 1913.

But a small proportion of the indoor paupers over seventy were able to leave the poor relief as a result of the grant of pensions. Many of these persons were probably defectives or infirm. Light is thrown on the situation of these persons by an article by Edith Sellers in the Contemporary Review for 1913 (vol. civ, pp. 528–536). Many pensioners without relatives could not get along on five shillings a week, or having made the attempt found their way back to the poorhouse again. The writer urges for such people, the erection of special old-age homes where they can be housed at small expense.

door pauper in 1911 was $30.13 as compared with the pension cost of $63. Even restricting the comparison to cases where the pension was given to a pauper, the cost was very materially increased. The real justification of a policy of old age pensions is simply that the aged pensioners deserve a more comfortable existence. It is an extension of relief to the aged destitute population without any stigma attached.

Figures for New Zealand indicate a slight falling off in the expense for poor relief after the grant of pensions. From 1899 to 1901 the expense per capita of the population fell 10.5 cents as a result of a grant of some 11,000 pensions at a per capita expense of about $1.00.[1]

These facts indicate the true relation between relief and insurance or pensions. A decline in poor relief expenditure can be demonstrated. When pensions larger than necessary relief are given to paupers, poor relief diminishes! A "saving" in poor relief occurs when paupers or persons who would otherwise become paupers are pensioned, whether the pension is a direct gift of the state or is a payment made from previous contributions

[1] Year Ended March 31	Charitable Aid and Other Expenditure	Per Head of Population	Pensioners	Cost of Pensions Per Head of Population
	£	s d		s d
1897	89,668	2 6¼	....	. ..
1898	86,073	2 4¼	....	. ..
1899	93,071	2 6	7,443	0 1
1900	77,603	2 0¾	11,285	4 1
1901	79,873	2 0¾	12,405	5 1
1902	88,849	2 3¼	12,776	5 3
1903	93,158	2 3¾	12,481	5 2
1904	89,232	2 2	11,926	4 10
1905	93,339	2 2¼	11,770	4 6
1906	103,273	2 4	12,582	5 8
1907	102,866	2 3¼	13,257	6 10
1908	104,417	2 3½	13,569	6 11
1909	112,818	2 4¼	14,396	6 11
1910	112,834	2 3½	15,330	7 4
1911	128,581	2 7	16,020	7 7
1912	153,133	3 0	16,649	7 10

[1] See the New Zealand Official Year-Book, 1912, pp. 187 and 896.

of the pensioners. It is clear that the saving in poor relief is an irrelevant matter. A measure providing old age pensions cannot be justified by a diminution in expenditure for the poor. Old age pensions are much more expensive than relief, and they are given to a much larger number of persons. We should really ask in case of pensions, is the desirability of making the lives of these people happier worth the extra expense ? Similarly in case of old age insurance, the measure must be justified not by a reduction of poor relief expenditure, but by an increase in the welfare of the aged insured population.

There may remain a fear that the indirect effect of old age pensions upon relief may be unwholesome. Will relief become more wasteful ? Will the morale of thrift among the working classes be weakened ? The underlying reason why relief is stigmatized through social disapproval and made as repelling as possible is to keep pauperism down to its smallest limits. Society must be safeguarded against an increase in the number of those who demand to be fed without working. Many cases of destitution are due to accident or misfortune where neglect or fault is absent. Modern charity seeks to help the worthy to recover their economic position. For those who are paupers by choice the workhouse principle is devised. No other treatment can avail with able-bodied loafers.

But with old age pensions we have an altogether different problem. Most of the pensioners are past their usefulness; they have done their work in the world. Many have led hard lives of toil. There is no danger of a serious decline in morale, in independence among the aged classes. The only question is whether it is worth while to lighten their hard lot in their years of feebleness.

There is a possibility that the morale of thrift might be injured among the classes approaching the pension age. Would workmen seeing the pensions paid to the aged desist from saving and learn to lean upon government assistance for his later years? Few workmen save for old age anyway. Most members of the working class are compelled to scrimp and cut down unnecessary and even necessary expenditure of all kinds to get along. Saving is exercised for the benefit of the children first, then possibly for the purchase of a home. The working class probably saves little except under compulsion. Sickness or misfortune or reckless expenditure in unguarded moments may sweep away savings that have been accumulated. Saving for old age does not begin to be a strong motive until the years of middle life. The size of the pension given in most countries is so small that it would not check appreciably an impulse to save. Most countries with old age pension systems in order to prevent an adverse effect on saving in the working class, have special provisions that small accumulations shall not disqualify an applicant for a pension. In New Zealand and Australia, for example, the possession of a modest home does not disqualify for an old age pension.

Where, as in Denmark, the pension is measured by the need, and the possession of a small sum in savings lessens by so much the amount of the allowance, there might easily be a tendency on the part of those approaching the age of sixty to spend what they had: to enjoy their savings plus the pension instead of their savings only.

The relation between relief and insurance is somewhat different. Insurance against invalidity and old age as in force in Germany means compulsory saving. Deductions are made from wages and the sums deducted are

are put by till sickness or old age arrives. No adverse effect upon the grant of relief can result from any decline in thrift from compulsory insurance.

Insurance against sickness provides funds to meet the expense of sickness in the workingman's family. Accident compensation takes care of the families of injured employees. The only possible adverse effect upon relief would be a tendency to grant more liberal assistance than before, by an unconscious comparing of the relief afforded to the benefits of insurance. It has been pointed out by Zahn and others that the number of cases of medical care of the poor and of appeals for medical advice has increased since the sickness insurance law went into effect. Most people would be inclined to agree that this increase is a good thing. A great deal more free medical care for the poor might easily reduce the death rate and the sickness rate and mean an addition to the efficiency of the working population. We cannot regard the campaign against tuberculosis or the establishment of pure milk depots, even if services are given free, in quite the same way as we regard relief given to the chronically unemployed.

If the expenditures for relief tend to increase as new standards of relief work are introduced, that is a matter which can be judged by itself. It has no necessary connection with old age pensions. If it is undesirable, new restrictions can be enforced and a new rigor introduced. If it seems to promise a future diminution of distress or lighten unnecessary burdens it may be continued. Old age pensions and old age insurance have certainly brightened the lot of the aged workingman in both England and Germany.

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REVIEWS

KELLER'S SOCIETAL EVOLUTION[1]

Not many years ago American sociology was largely comprised in the writings of Ward and Giddings. Recently disciples of these two pioneers, as well as independent students, have broadened and deepened the work which they accomplished. The best contributions of the group of younger writers have been on the psychological side of sociology. Comparatively little has appeared recently upon the biological or physical aspects of the subject, if we except the excellent work done by geographers on the influence of the physical environment.

It is with special interest, therefore, that in this volume of Professor Keller's our attention is turned to another point of departure in sociology, that represented by the work of the late William G. Sumner. That Sumner never completed his work is a matter for regret. Instead of finishing the *Science of Society* he devoted himself to a preliminary study, *Folkways*, which he thought necessary as an introduction to the final work. Professor Keller is now the recognized exponent of Sumner's theories; and, altho he differs from Sumner on many details, he is in sympathy with his general point of view. *Societal Evolution*, according to its author, fits into Sumner's general scheme. In a note at the end of the volume he says: "As for the systematic application to the folkways of the central idea of Darwinian evolution, I do not believe that it occurred to Sumner to undertake it. . . . What he wanted to make clear was the origin and nature of the folkways; and then he meant to hasten back to his *Science of Society*, rewrite in the light of *Folkways* what he

[1] Societal Evolution, A Study of the Evolutionary Basis of the Science of Society. By Albert Galloway Keller. The Macmillan Company, 1915.

had already written, and complete the treatise. It is my belief that he would have been obliged to return to the topic of evolution in its relation to the folkways before he could have satisfied himself to go on with his *Science of Society*."

Professor Keller's explanation of the process of evolution differs, however, from that which Sumner would have made. He abandons the Spencerian formula and explains societal evolution in the simpler concepts of the Darwinian theory. He is correct in the assumption that more practical results will be obtained from the Darwinian than from the Spencerian formula of evolution; but he exaggerates the influence of Spencer when he says (p. 5): "The common persuasion of the social scientists is that evolution means Spencer. . . . Authors vary in their relations with him from the glad discipleship of a Fiske on through the incensed hostility of the orthodox, but they all unite in revering or assailing him as *the* exponent of evolution." The Darwinian version of evolution has also influenced many writers in the social sciences. Altho Spencer has been followed by many prominent sociologists, his influence is on the decline. The acceptance of the Darwinian point of view cannot be said to be such a reaction from the position of sociologists in general as the author seems to think, even tho it may be a reaction from Sumner.

Tho it would be a difficult matter to make a brief classification which would include all sociologists, the psychological writers may be easily distinguished from the biological ones; and *Societal Evolution* belongs clearly to the latter division. To classify it with the biological writings is not, however, a sufficient characterization of the work. There have been several kinds of biological writers; and this book almost deserves a place by itself. The first writers on the biological side were the analogists, who for lack of other material satisfied themselves with pointing out how closely society resembles something else — in this case an organism. The dangers and more particularly the limitations of this method were soon perceived, and it was generally abandoned. Another class of biological sociologists was represented by such

writers as Haycraft and Kidd. They borrowed laws of organic evolution, and applied them to human societies without sufficient evidence that the results were wholly applicable. To proceed on the supposition that principles which apply to the evolution of lower organisms will apply in an equal degree to human beings is bound to lead to serious error. Professor Keller has avoided the crudities of the earlier writers. He takes his cue from the Darwinian explanation of organic evolution, and proposes to show to what degree and in what manner its principles are applicable to the evolution of human societies.

Such a method gives promise of valuable results; and yet it is not without its dangers. Professor Keller himself fears that he will be charged with reasoning from analogy, and repudiates the charge by asserting that from a study of the social process itself he finds such phenomena existing as variation, selection, etc. I do not believe that "reasoning from analogy" is the proper criticism of Professor Keller's method. The danger lies in the fact that the investigator who follows the methods established for organic evolution will be satisfied if he finds results in the social world such as have been shown to exist in the lower organic. In other words, he tends to look for a specific thing and therefore to be satisfied if he finds that thing — *i. e.*, with incomplete results. A simple illustration may be found in the phenomenon of struggle or conflict, which is evidently present both in the lower organic life and in social life. The biologist points out that struggle gives rise to natural selection; the social scientist who follows this line of thought will find that selection results from struggle in the social sphere also. But if he is satisfied with this result, the very one which he is led to seek, he will overlook the fact that struggle in society gives rise not merely to selection, but to superiority and subordination, to division of labor, and other important phenomena.

The same criticism is applicable to the author's choice of the Darwinian terms, — variation, selection, transmission, adaptation. Something corresponding to these processes does take place in the social sphere, but that the biological

terms best describe the social processes is open to question. Bagehot, who studied the social processes directly, described them as uniformity (the cake of custom), variation, and selection; while Tarde chose the terms imitation, opposition, and adaptation, with variation as an extra-social process. The exact terms to be employed may be a matter of minor importance; but I believe we should at least distinguish those terms which describe means from those which describe ends. Imitation and transmission bring about uniformity; opposition gives rise to selection; and social selection and social adaptation are so nearly alike that it is doubtful if both terms need to be used. Perhaps the fault I have pointed out as inherent in the system is not glaring in this particular book. Yet Professor Keller shows a tendency throughout, and particularly in the chapters on variation and adaptation, to be satisfied with a demonstration that a process exists in society without analyzing its special social bearing. We can never be sure of complete results in sociological analyses until we study social laws as independent phenomena, without constant concentration on the methods and results of another science.

So much for the general scheme of the book. It will be worth while now to examine its chief conclusions. After a preliminary discussion, in which the author points out the nature of human evolution and the character of the folkways, he proceeds to the application of the Darwinian factors to human evolution.

Variations are essential and evident, says Professor Keller; but they do not extend in all directions. They are rigidly limited by the mores. Some variations are eliminated immediately, but many unfavorable variations persist for some time; for the process of selection is slower than that of variation. Variations that are selected enter into the folkways and become social.

The treatment of the subject of variation is brief and is the least satisfactory of all. The fact of variation is insisted upon, but there is little analysis of the phenomenon itself. The causes of variation and the conditions most favorable to its development, subjects of great practical interest, are

not touched upon. Is it possible that this brevity is due to the fact that biological variations are themselves shrouded in mystery and hence yield little basis for analogy? True, Professor Keller does not yield to the temptation to discourse on mutations and social amphimixis; but he substitutes no purely social discussion in its place.

Selection he divides into two kinds, automatic and rational. Automatic selection is akin to natural selection. The struggle upon which it is based may be eliminative, and hence the form of selection may be as decisive as that brought about by nature. Selections in society are not always so decisive, however. The results of struggle range all the way from elimination to minor degrees of subordination, and we have the milder struggles of sub-groups within a society. "The effectiveness of natural selection varies inversely as the height of civilization," is the author's law of selection.

Rational selection is much more difficult to analyze and to evaluate. On the whole the author believes that the action of rational selection on societal forms in general is of much less importance than is usually supposed. The determination of the mores lies with the masses; and our ways of acting are usually traditional and irrational. Even the molding of the mores in a rational way through leaders in society is very limited in its scope. And yet, — we are not to lose courage. The situation is not hopeless. As a direct and constant method of determining societal forms the action of reason cannot be demonstrated; but in an indirect and roundabout manner reason rules. In that part of our group life which has to do with self-maintenance reason generally prevails. Cause and effect are more direct and evident here, and hence the utility of a new method or process in economic life is much more demonstrable than is the utility of a code of ethics or a religious belief. Having demonstrated the action of reason in the economic sphere, the author, following the theory of the economic interpretation of history, maintains that the social superstructure will conform itself to the economic foundation, and rational choice acting through economic life will indirectly affect the rest of social life.

After the denial of direct rational selection the reader will find this an astonishing conclusion. The truth or falsity of the economic interpretation of history need not here be argued. What the book undertakes to discuss is social processes. Granted that rational selections exist in the economic sphere; granted also that the social superstructure conforms in general to the economic base, — the question remains, what is the process of adaptation? The author does not explain. One would suppose it was by the "unseen hand," or by some social force of gravitation beyond our understanding. The fact is that the social superstructure conforms to the economic basis in a very natural way. Old social forms do not seem to us desirable under new economic conditions, and other forms are selected which seem to us good. The process is the same as that of any other change in society — variation, selection, transmission, and adaptation. One cannot deny direct rational choice in the greater part of our social life and then admit its action during the process by which the secondary social forms conform to the primary. The economic basis does not act on the social superstructure except through individuals, and the adaptation of different forms of social life to each other is rational only to the extent that the choices of individuals are rational.

The first mistake made by Professor Keller in the treatment of this subject, and one which proved troublesome, was the classification of selections into automatic and rational. The degree of wisdom in selection is purely relative, and does not give the proper basis for classification. The significant fact of selections is that they are either unconscious (automatic is a good term) or made by conscious choice. We should not say that selections were of two kinds, automatic selections and wise selections; yet this is the sense of the author's classification.

A brief digression from the general line of argument is made to discuss in a very readable chapter the subject of counter-selection, that is, those conditions which produce adverse selections. The author contends that counter-selections are not independent abnormal manifestations, but have

a natural connection with societal selection. The evils of counter-selection, tho they form in a sense the penalties of progress, may be gradually reduced. In this discussion the author follows Schallmayer's outline almost exclusively. De Lapouge is not mentioned.

Transmission Professor Keller divides into two classes: from one generation to the next, and from one social group to another, — custom and mode in the words of Tarde, or tradition and convention as Ross more happily expressed it. The author makes little of the distinction, however, because the method is the same in either case. "Transmission of the mores takes place through the agency of imitation or of inculcation, through one or the other according as the initiative is taken by the receiving or the giving party respectively (p. 215)."

The last three chapters, treating of adaptation, do not extend the theory but supply further illustration. The fact of adaptation is shown by the discussion of conditions in three social groups in different stages of development — the Esquimaux society, frontier life, and modern city life. As has already been suggested, there is little to add to the theoretical discussion under the head of adaptation, if selection has been thoroughly treated.

The reader who is acquainted with sociological literature will not be impressed with the amount of new material in the book. Its value lies principally in the continuance of Sumner's plan. The work should not be mistaken for a treatise on sociology; it is rather a chapter in sociology. All sociologists will share the hope that Professor Keller will complete the work, and give us the *Science of Society* which Sumner left unfinished.

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VEBLEN'S IMPERIAL GERMANY AND THE INDUSTRIAL REVOLUTION [1]

I do not remember ever to have found in any modern book of sociology more interest and stimulus than in this new work of Professor Veblen's. The "unexpected" quality of his mind, his power of using exact knowledge in the field of archaeology for fresh suggestion in the field of economics, and his trenchant irony, all make one desire to give him the old-fashioned name of "genius."

Professor Veblen states that his book was projected before the war and written during the war. Its aim, he says, is to be "a comparison and correlation between the German case on the one hand, and the English-speaking peoples' on the other hand, considered as two distinct and somewhat divergent lines of the cultural development in modern times" (p. v). But to most readers the book will make a stronger appeal as being a continuation of his examination (in *The Theory of the Leisure Class*, and *The Instinct of Workmanship*) of the general relation between the modern industrial system and the needs and tendencies of human nature. In Germany, England, the United States, and Scandinavia (for Scandinavia, one feels, is always in his mind) he sees nations composed of almost precisely the same North European racial amalgam, — an amalgam whose elements have not changed since the appearance of the dolicho-blond "mutation" at the end of the last glacial period (p. 278). The inherited "nature" of this stock received its final form, he says, during the long process of adaptation to a life of mixed agriculture, fishing, and handicraft which covered the later stone ages.

But all the races of North European origin have, with no change in their "nature," suddenly adopted machine-industry, with its enormously increased production of certain kinds of goods, as the economic basis of their lives. That fact raises three connected problems. To what use do the nations

[1] Imperial Germany and the Industrial Revolution. By Thorstein Veblen. New York: Macmillan Co. 1915.

concerned put their increased production? What are the effects of the new system on the state and government of communities? What are the effects of the change in technical methods on the worth of the individual lives of those who use them?

In this book, as in *The Theory of the Leisure Class*, Veblen is mainly concerned with the first problem. He begins with the English, among whom modern machine-industry had its origin. Here he finds that practically the whole "surplus-value" (to use the Marxian term) produced by machine-industry is consumed by the gentleman class in sport and other forms of "conspicuous waste." "The English to-day lead the Christian world both in the volume of their gentility and in its cost per unit" (p. 137). Not even the most spend-thrift newly-rich amongst the Germans "have yet learned to consume large incomes with that unobtrusive efficiency that marks the gentleman of inherited wealth who has had the benefit of life-long experience in a community of wasters" (p. 202). In England "all this superfluity of inanities has been worked into the British conception of what is right, good, and necessary to civilised life" (p. 138). As one reads, one remembers cases where the duty of maintaining town and country houses, packs of hounds, splendid gardens, has prevented really conscientious and kindly members of the English landowning class from feeling themselves able to incur other expenditure which they recognized as being of greater social use or greater personal pleasantness. Even English bishops are affected by our dominant moral code in that respect. "My episcopal income," sighed Bishop Stubbs, "goes in pelargoniums."

But the English, simply because they introduced the machine-industry, have, says Veblen, never whole-heartedly accepted it. The struggle between owners and workmen which accompanied its introduction has left "the alienation between the two classes . . . nearly complete" (p. 130). Three generations of capitalism have lowered the vitality of the English workingman. English employers and railway directors have never had the courage to "scrap" their pioneer

blast-furnaces or shunting yards; and indeed the general reconstruction, *e. g.*, of a railway system which was originally the result of local compromises and timid experiments, has become almost impossible.

When English commercial handicraft began at the close of the middle ages, its processes were, he tells us, in the main borrowed from the Continent, and because they were borrowed without their original fringe of misunderstanding and superstition the English used them more efficiently than did their inventors. In the same way the Germans, when they borrowed from England the new machine-industry of the nineteenth century, had the enormous advantage of knowing with commonsense clarity what they were doing. Their equipment was from the beginning up to date. Their universities and their university class threw themselves with sheer delight into the work of applying the comparatively simple scientific principles on which machine-industry depends. The German output has therefore grown much faster than the English, altho the rate of growth showed before the war some signs of slackening.

But the fact that it took the English four generations to work their way through a process through which the Germans confidently passed in one, has had another and more subtle effect. The English have never consciously abandoned the medieval tradition of loyalty to a dynastic monarchy, but they have slowly and unconsciously acquired a habit of mind with which those traditions are inconsistent. They therefore tend to revert to the political impulses which during the "Pagan Anarchy" of the stone ages became, by selection, part of their biological inheritance and were suppressed by habits formed under Christian medieval monarchy. "Pagan Anarchy," as Professor Veblen sees it on the evidence of archaeology and the sagas, was a "neighborhood organisation" on a very small scale, kept in being by an instinct of "Live and Let Live" and controlled by "a civil system which might be described as anarchy qualified by the commonsense of a deliberative assembly that exercises no coercive control" (p. 44).

The medieval monarchical state was in North Europe the result of the violent destruction of this system at about the time of the adoption of Christianity. But owing, perhaps, "to a recrudescence of the ancient anarchistic bent" in modern times "the drift of sentiment now sets again in the direction of Live and Let Live, and discountenances," (especially in "the French, English-speaking, and Scandinavian countries") "all institutional establishments of a visibly servile order" (161). In Germany, however, medievalism has not had time to die, and we now find the formidable phenomenon of a medieval aggressive dynasty wielding the whole material force of a fully conscious national machine-industry. If it had not been for the war this phenomenon would have been transient. "The Imperial State may be said to be unable to get along without the machine-industry, and also in the long run, unable to get along with it" (p. 262).

At this point I should like to suggest to Professor Veblen that a more extended analysis than he gives us of the psychological questions involved in his position is desirable. He is in effect arguing against the doctrine (which before the war almost became the official Prussian ethic) that the Will to Power is the one universal and dominant human instinct. Hobbes said, a couple of centuries ago, that the "general inclination of all mankind" is "a perpetual and restless desire of power after power, that ceaseth only in death." Nietzsche declared that "Life itself is the will to power. It is this that every man in his inmost heart desires — to assert himself against the world without, to appropriate, injure, suppress, exploit" (*Beyond Good and Evil*, p. 259). To this Veblen replies (as I have already explained) that the "human nature" of the "North European hybrid peoples" was fixed by the conditions of life in prehistoric times, — in the days of selective elimination of the unfit types; that the selective environment was the small and loosely connected social unit of a community of neolithic farmers who were also handicraftsmen; that the "nature" so selected is such that "the common man" is "by natural bent gifted with a penchant for letting his neighbor live as good him seems, within the . . .

margin of neighborhood tolerance;" that this moral bent is "ubiquitous and persistent," and that in historic times it "has reasserted itself with notable resiliency from time to time, in the development of . . . free institutions" (p. 312).

The terminology of social psychology is not yet agreed, and I may perhaps be allowed in discussing these two apparently contradictory psychological propositions to use the terminology suggested in my own book, *The Great Society*. I would myself therefore say as against Veblen, first, that the neolithic period represents a tiny fraction of the whole path of human evolution, and that we must look behind it, and indeed behind the life of men as such, for the causes of the more deep-seated human "dispositions"; and secondly, that the statement that a disposition is "general" or "persistent" is ambiguous. Many of the most important dispositions, tho they are universal and persistent as potential impulses, are intermittent as actual impulses. The dispositions, for instance, of sex-love or fear are so far universal and persistent, that if they are left unstimulated for a long period in a normal human being the condition of "balked disposition" results; but their actual manifestations are normally intermittent.

Now the most important factor in the complex disposition called the "Will to Power" is, I believe, that which I called the "Give a Lead" disposition, which shows itself as an alternative to the "Follow a Lead" disposition, either in moments of common danger or (if for a long time it is left unstimulated) spontaneously. Like other dispositions it may become dominant in the character of any individual by habit, reinforced sometimes by a corresponding moral and historical intellectual background. But such a dominant habit is often "unnatural" and liable to produce intermittent discomfort and even disgust in the persons (like Sardanapalus or Nero) dominated by it.

That which Veblen calls the "Live and Let Live" disposition seems to me, in so far as it exists, to be much more complex than the Will to Power. One factor in it would be the intermittent disinterested kindliness towards members of the

same species which I called "Love." But there are other factors perhaps equally important. One of them is the "property" disposition, which makes us resent any interference with certain of our personal "rights." Another is the general instinct which makes us feel anger at interruption, especially by a fellow human being, of any strongly motived action of ours; making love, for instance, or feeding when one is hungry, or fashioning some object in which we are strongly interested (as when someone breaks up the toy house that a child is making). If we vividly conceive the anger and pain so produced in others, the moral feeling "Live and Let Live" may result.

Throughout the structure of social life all these dispositions, in spite of their apparent inconsistence with each other, constantly appear and disappear, and have done so since and before man has been man. They are all persistent as dispositions, and intermittent as phenomena. The greatest pain and the angriest clash result when the height of one wave in one human being coincides with the height of an opposing wave in another. Tell meets Gessler; or a sensitive Alsatian recruit, fresh from reading Barrès, meets a Junker officer fresh from hearing Treitschke talked at the mess table, and is compelled to salute and say "Ich bin ein Wackes.[1]" In such cases, too, the special disposition of acute shame when one human being is humiliated in the presence of others may play its part.

Professor Veblen is probably right in arguing that the neolithic North European life of which we get hints in the Icelandic sagas fitted fairly well into those complex psychological facts; and even in believing that a certain amount of biological adaptation to that environment took place in the neolithic period; tho I am convinced that he greatly exaggerates the degree and importance of any such adaptation. The resultant life was not peaceful. One supposes that "Live and Let Live" was in neolithic times consistent with a good deal of fighting and oppression; but one also supposes that the life was interesting and vivid on the whole, and that disgust with

[1] A term of contumely applied in Alsace to those of the lower classes. — Editor's Note.

the whole structure of society only existed among a few slaves and women.

It is not easy to generalize as to the normal results of the same complex psychological facts in a community organized under the machine-industry. The first observation which occurs to me is that the machine workman is apt to become "balked" or "fed-up" with the routine discipline of the shop and of the machine itself. Outside the shop he is more inclined to assert himself than is, for instance, a shepherd after his varied and comparatively "free" day's work of ruling sheep. The machine workman's loyalty (his "follow-the-lead" disposition) is apt to be directed to the leaders of his class, or trade, or party, rather than to a hereditary monarch or caste. If he has been through military service the combined habits of shop discipline and barrack discipline will be wonderfully effective in any particular crisis, but may coexist with a deep personal dissatisfaction and unhappiness. There may, therefore, arise in the population of a modern industrial community a state of mind like that which prevailed among the German social-democrats before the war and may reappear after peace — a passionate desire for an ideal condition of freedom and brotherhood, balked by every incident of daily life, yet fortified by a whole "Weltanschauung" of socialist history, economics, and ethics. Such a state of mind is enormously powerful for destruction. Whether it is to result in Germany and elsewhere in that constructive development of "free institutions" for which Veblen hopes, depends in part on whether the European survivors of the war will be equal to the intellectual demands of their time.

In spite of the detachment and restraint with which Professor Veblen writes, it is clear that he finds the German imperial system scientifically interesting but morally antipathetic. There was much in what he says about England which I could only enjoy by realizing that it was meant for my good. I read the chapter on Imperial Germany shortly after watching one of the Kaiser's Zeppelins drop bombs on a poor quarter in London, and I felt an enjoyment which was probably not good for me in reading of German "flunkeyism

dignified with a metaphysical nimbus" (p. 166), the "solemn self-complacency of the Prussian Imperial statesmen" (p. 196), and the "callous disingenuousness" of Prussian statecraft (p. 147). Perhaps even on that morning I should myself have abstained from making the helminthological simile (p. 164) on the uses of a dynastic establishment.

I am not in a position to estimate the fairness of Professor Veblen's criticisms of the United States. But in his description of the American captains of industry as having "matriculated from the training school of a country town based on a retail business in speculative real estate and political jobbery" (p. 187), and in his unsmiling account of the devastation of native American morals by the ease with which foreign immigrants can be swindled (p. 318), there is material for American sociological reflection.

And yet, in spite of their interest and stimulus and grim humor, one sorrowfully confesses that Professor Veblen's books are, even for a professional student, pretty stiff reading. They are not well arranged, and there is a good deal of repetition. Men of original genius, like Jeremy Bentham or Professor Veblen, have of course the right to expect that students shall take the trouble to find out their meaning however it is expressed; but I still think that it would not be a waste of his time if Professor Veblen would consider one or two points of mere language. He uses, for a single instance, the English termination "like" as being equivalent to the German termination "lich." He constantly says "sportsmanlike instinct" and "businesslike management" when it requires an effort to realize that he means the very different ideas of "sporting instinct" and "management by business men." Hegel never had much influence in England till a man with a twentieth of Hegel's genius wrote a compendium of his works and called it "The Secret of Hegel." If someone would write a "Secret of Veblen," summing up (with an index!) the four books which have so far appeared, Professor Veblen's position in the universities of the world would be assured.

But such a compendium would not satisfy me. I want Professor Veblen to write a new book, in which he shall drop the

irony and reticence which is such an admirable means of self-protection for a sensitive teacher who thinks for himself. Let him address not the universities but the outside world. He analyzed before the war the causes of the disharmony between the nature of man and the institutions which the existing generation have created or inherited or drifted into. He saw with a goodnatured but unmistakable contempt the muddle we had made of our lives. Obviously he had some better manner of life at the back of his mind. Does he advise us to tear up the railways which have extended society so far beyond the "neighborhood" organization of our Baltic ancestors? Or has he some plan by which the existence of railways — and aeroplanes and wireless telephony and the rest — can be combined with the old quasi-anarchic principle of Live and Let Live? Ought we, as he seems to think, to turn our backs once for all on traditional Christianity? If, as he hints on page 203, our present "waste of time and substance" is due to the "price system," what are we to put in its place? In our present distress it seems a little inhuman of him not to tell us. He is a long way from the war, and can afford to say that the British fleet is in the nature of things of "secondary importance or something less" (p. 128 n.), and that since our officers are gentlemen, and "gentlemen commonly have no industrial value," the mortality among them "may be set down as net gain in the economic respect" (p. 269). We ourselves are reading the daily casualty lists in which we find the names of those who were to have been our poets, our philosophers, and our political and industrial organizers. Professor Veblen might perhaps tell us that he feels himself stronger as a critic than as an inventor, or that he is not very sure of his own ideas of reconstruction, and that if he formulated them they would not amount to a complete scheme. We should answer that no one else is in better case, and that we are hungering for anything, complete or incomplete, which may help to make thought about the future of mankind seem worth while again.

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NOTES AND MEMORANDA

MUNICIPALIZATION OF THE BERLIN ELECTRIC WORKS [1]

On April 18th of this year the city council of Berlin voted a sum of not to exceed one hundred and thirty million marks for the purchase of the Berlin Electric Works. A transaction of such magnitude and significance would have attracted attention at any time. Its announcement during a state of war which has imposed tremendous burdens financial and otherwise upon German cities, aroused world-wide interest.

No one seems to maintain that the step finally taken by Berlin was the result of a theoretical decision upon the question of public as opposed to private ownership. On the other hand there can be no doubt that opinion in favor of "das Manchestertum" has been losing ground in the city council of late. Berlin has owned and operated gas works since 1844. When early in the eighties the question of electric lighting first came up, however, the city fathers decided in favor of private enterprise, chiefly because of the risks of a business then technically in its infancy. Of course the social-democrats in the council opposed this decision; and on every occasion when the franchise came up for revision they advocated municipal ownership. In this position, however, the socialists have always had some support from other parties, a support which grew in volume until finally it amounted to a majority on the electric lighting question. The magistrat experienced a development of opinion similar to that of the council, and the strong position taken by Oberbürgermeister

[1] The writer desires to express his indebtedness particularly to the admirable series of articles by Dr. Hugo Lindemann on "Die Verstadtlichung der Berliner Elektrizitätswerke," in Kommunale Praxis, 15 Jhrg., Nos. 21–24 incl., 22 Mai to 12 Juni.

Wermuth contributed materially to the decision in favor of purchasing the plant.

Even with all these favoring circumstances final action came as something of a surprise, and might have been delayed had it not been for extraordinary conditions caused by the war. According to the franchise under which the electric company operated, the city was empowered to purchase the plant on October 15th of the present year. Two year's notice was required and had been duly given in 1913; more, however, with the intent to keep the legal right of purchase alive than to decide the question definitively. Following this step the municipal authorities entered into negotiations with the company to secure (1) cheaper rates, (2) a revision of the relations between city and company by the establishment of a mixed economic undertaking, and (3) a revision of the relations between the operating company (the Berliner Elektrizitätswerke) and the holding company (the Allgemeine Elektrizitätsgesellschaft). With regard to the third of these points it should be noted that the A. E. G., which owns a number of electric plants in other German cities and in foreign countries, took over the B. E. W. in 1899. The relations between the two, while not fully known to the public, have been subject to criticism ever since as being unduly favorable to the holding company and correspondingly unfavorable to the city.

The real principals in the negotiations which took place between 1913 and 1915 were, therefore, the city authorities on the one hand and the A. E. G. on the other. There was, however, a decided difference between these negotiations and earlier ones in that the company, which formerly knew that a decision would be reached favorable to private ownership, in the present instance was well aware that the city would take over the plant if dissatisfied with the concessions offered. So far as lower rates were concerned the electric company hoped to meet the demands made upon it by the erection of a great generating station in the Bitterfeld lignite fields. Suddenly the announcement was made that the imperial government had seized these deposits, probably with the purpose of distilling "tar acids," *i. e.*, carbolic acids, creosols, etc., from

which high explosives are made. Thus prevented from selling current at lower rates, the company offered to continue under existing franchise conditions for a period of six years. The magistrat rejected this proposal, which left municipalization in October as the only alternative. It is believed that the A. E. G. was not altogether displeased with the result. Certain rather uncompromising steps which it took while negotiations were pending support this view. Struggling with hard times due to the war, and with the certainty of severe franchise conditions even if Berlin decided to renew the franchise, the A. E. G. may have regarded with decided satisfaction the possibility of coming into possession of large current funds from the immediate sale of the plant.

Since its establishment in 1885, the history of the Berlin electric works has been that of an industry expanding with great rapidity and developing new and unexpected uses in a way that baffled again and again the careful foresight of the authorities in their attempts to regulate it for the benefit of the city. In the first year of operation it produced only 37,500 kilowatt hours; in 1913–14 it produced 267,589,125. While it took eighteen years to reach its first annual output of one hundred million, the second hundred million was registered within six years more. In 1888 current was first produced for power purposes and eleven years later the consumption in this way had caught up with lighting. In 1895 electric power was first used on the street railways. Within three years consumption for the latter purpose equaled that for lighting.

Meanwhile invention was greatly reducing the cost of production. It is not strange, therefore, that in spite of all the care with which the original franchise had been drafted in 1884, the city authorities soon felt that they were getting decidedly the worst of the bargain. Among its provisions, however, was one narrowly limiting the area within which the company was permitted to operate. Naturally the company desired extensions, and these advantages, together with others it secured at the cost of valuable concessions to the city in the franchise revisions of 1888, 1890, 1899, and 1907. During

the thirty years of private operation, therefore, no fewer than four important franchise changes were made. Yet in spite of all the concessions granted by the company the conviction constantly gained ground at the Rathaus that only by municipal ownership and operation could the best results for the city be secured.

Limitations of space prevent more than a brief notice of a few franchise provisions of major interest. General or partial rate reductions were secured at each of the four revisions noted above, and also in 1892 and 1904. In Germany, as in the United States, there has been an extensive and lively controversy regarding the relative economy of private and municipal operation of electric works. Whatever may be the facts in this country the margin between the two is certainly much smaller in Germany. On the whole Berlin does not seem to have been considered a very favorable instance by the advocates of private management. The B. E. W. had the advantage of the largest consuming population in the empire, — a population moreover of very great density. On the other hand it was somewhat handicapped by old equipment. Nevertheless the rates charged for current were constantly criticized as too high, and in spite of six tariff changes they remained a sore point to the end of private operation.

According to the original franchise the company was obligated to pay to the city 10 per cent of the gross income of the undertaking, and in years when the net income exceeded 6 per cent on the capital stock a further payment of 25 per cent of such excess. Difficulties soon arose as to the application of these provisions to various forms of gross income, and they were more adequately defined in 1888. Again in 1899, while retaining the 10 per cent on gross income, the city demanded and obtained 50 per cent of the net profit in excess of 6 per cent on the capital stock up to 20,000,000 marks, and also 50 per cent of the net profit in excess of 4 per cent on capital stock in excess of 20,000,000 marks. Thorogoing rules determining the method of calculating net profit were included. In addition to producing quite acceptable dividends to shareholders and proving a veritable gold mine to

the holding company, the B. E. W. also paid under the conditions stated above considerable revenues to the city. For 1913–14, the last operating year, receipts of the municipal treasury from this source amounted to 7,239,131 marks. The refusal of the magistrat to continue the existing franchise for another six years indicates that it hopes to obtain still larger returns under municipal operation. With the possibility of a continuance of war conditions, however, the net income of the electric works has been estimated very conservatively in the budget for the second half of the year 1915 at 4,000,000 marks.

In the two franchises of 1884 and 1888, the city retained the power either of purchasing the plant outright or of ordering the removal of wires from the streets in case the company failed to perform certain essential obligations. Apart from such neglect on the part of the company, the city also reserved the right of purchase upon two years' notice at any time after October 1, 1895. If purchase was decided upon for any reason the price was to be determined by experts (*Taxwert*), one appointed by the city, the other by the company, who were to appraise the properties as an interdependent whole according to commercial principles. By a further interesting provision the city was to pay 150 per cent of the appraised value if it took over the works after fifteen years of private operation, and 3⅓ per cent additional for each year less than this number. On the other hand it was to receive a reduction of 3⅓ per cent for each year in excess of fifteen for which the franchise was allowed to run.

By the revision of 1899, the city also acquired the right to take over the plant at the purchase price of its various parts as shown by the books of the company (*Buchwert*). This carried with it the advantage of securing certain centrally located realty possessed by the company at its original cost. By the method of appraisal, on the other hand, these parcels would have been turned in at their present value, which had greatly increased since the date of purchase by the company. The right of purchase at book value, however, did not safeguard the city sufficiently against overpayment on the plant,

on which the rate of annual reduction as stated above was considered to be not high enough. A motion to permit the purchase of the land holdings of the company at its book value and the rest of the plant at appraised value failed to pass the council, altho it would doubtless have reduced the total price considerably. According to an exhaustive study made by the magistrat in 1915, the appraisal value of the technical parts of the plant was 1,700,000 marks lower than the book value, but on the other hand the real estate was worth 4,195,000 marks more by the appraisal value. The book valuation method was therefore shown to result in a final price 2,495,000 marks lower than the appraisal method.

One of the commonest objections to municipal operation is that owing to political methods and limitations it does not permit quick action to take advantage of favorable market conditions, to meet emergencies, and the like. Private operation is assumed to be much more rapid and decisive. In the management of its newly acquired electric works Berlin is attempting to meet this criticism by an ingenious administrative device. The usual "deputation" is provided, consisting in this case of four members of the magistrat, six councilmen, and two citizen deputies. It is to have supervision over the operations of a "direktion," but the latter, which is composed of experts,[1] is to have full administrative power over the plant under all ordinary conditions. In a small number of closely defined cases, however — chiefly of novel undertakings and large purchases — the direktion must obtain the consent of the deputation. Finally in two matters the deputation plays a direct part: (1) the preparation of the budget, and (2) the fixing of the general tariff of prices at which

[1] The city evidently intends to secure the ablest technical talent obtainable and to pay it accordingly. According to a recent announcement the following have been appointed to the direktion of the municipal electric works; Passavant, former director of the private company; Wikander, expert councilor of the magistrat and formerly vice-director of the private company. A former vice-director of the private company, Wilkens, was appointed vice-director of the municipal works. Dr. Brühl, a councilor to the magistrat, received the post of syndikus, or legal adviser, of the municipal works. The salary of the directors is fixed at 15,000 marks with participation in the profits of the undertaking, not however, to exceed 39,000 marks per year. A German "director," it must be remembered, is a manager, not a mere member of a supervising body like an American board of directors.

electric current is to be supplied. Both of these are to be determined by the deputation upon the motion of the direktion. It will be noted that on the whole the expert administrators of the direktion will have pretty full freedom of action, and that the functions of the deputation are largely supervisory. This is in remarkable contrast with the municipal gas works of the city, in which the direktion is very narrowly controlled, and both oversight and administration are largely in the hands of the deputation. Of course the direktion and deputation of the electric works, like every other branch of the city's administration, are subject to the general control of the magistrat.

As an administrative proposition the whole matter resolves itself into this, that in undertaking the operation of its new property the city of Berlin has decided to entrust an unusual amount of power to an expert organ, and to curtail accordingly the powers of local self-governing organs. Owing to this novel method of control, the financial and technical magnitude of the experiment, and the troublous times in which it is being undertaken, the future experience of Berlin as a producer and seller of electricity should be of unusual interest.

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THE EQUIVALENT CONCEPT OF VALUE

It would appear from the controversy on the Concept of Value, between Professors J. M. Clark and B. M. Anderson, Jr.,[1] that there has not yet been reached a complete agreement regarding the use of this word in economics. That the word is colloquially used in a number of heterogeneous senses is no reason why ambiguity in economic discussion should not be eliminated. A single and clear-cut definition is certainly desirable.

[1] In this Journal, August, 1915, pp. 663 seq.

The definition of value that appeals to me more than any other is one given by MacLeod,[1] namely "the value of any economic quantity is any other economic quantity for which it can be exchanged." "Value," accordingly, is the same as "equivalent," and "the value of" should be interpreted as "that which is equal to," or "that which can be obtained in exchange for." Indeed, in mathematics the word is used in this sense. The mathematician finds the "value" of the unknown quantity of an equation, or inserts numerical "values" for the literal terms of a formula. To him "the value of" means "that which can be substituted for."

While under this definition the term "value" would be applicable reciprocally to any two quantities that exchange evenly in the market, the term "price" would be reserved to denote the value of a unit quantity of a good expressed in terms of an adopted value unit.

The above definition of value has been disputed on the ground that value is not a thing, but a property of economic goods that induces men to go to some trouble, or to make some sacrifice, in the effort to obtain the goods. However, this objection does not avail to bar the definition. Nouns that denote attributes of things, such as weight or length, may be applied either in a qualitative or in a quantitative sense. Weight, for example, is a quality of bodies manifesting itself in their tendency to gravitate towards the earth's center; but when we speak of the weight of things, the magnitude of that tendency is meant, and then weight is a concrete quantity, not a quality. So is the term "value" adapted to be used in two senses, according as it denotes either purchasing power, a *quality* of economic goods, or the magnitude of that power, and then value is a *concrete quantity*. In this latter sense only is value a synonym of exchange equivalent, and the equivalent of a *thing* is necessarily another *thing*.

It is also true that the value of a thing may be expressed in as many different ways as there are other things that may be exchanged for it; and it may even happen that the value of a thing under one denomination rises while at the same time its value under another denomination falls.

[1] Elements of Economics, vol. i, p. 223.

This may appear to be in conflict with common sense, but when properly considered, it is by no means unreasonable. Imagine that in a fleet of air craft, at a height at which the aviators have means neither for maintaining nor for measuring their absolute altitude, two of them undertake to observe the altitude of a third. It could then very well happen that one of the observers would report the observed machine as ascending at the same time when the other reports the same machine as descending. Each observation having been made from the standpoint of each of the observers in the absence of a fixed point, only relative positions could be observed. Were it required to keep records of the relative altitudes of all the machines of the fleet, the simplest method would be to select one of the machines as a standard bearer and to record the varying elevation of every other in relation to this one.

The problem of value fluctuation is precisely of the same nature, and the method now current is that of adopting one of the commodities, namely gold, as a standard in terms of which the current prices or exchange rates of the various goods composing the market are expressed.

Since we can learn the prices of goods by no other means than by observing the market, we can become aware of changes only if it is found that consecutive exchanges are made at different rates. The market is the criterion of values, just as a scale is the criterion of weight. There can be no unit of equivalence, and what is called the unit of value is nothing more than an arbitrarily selected quantity of goods, — 23.22 grains of pure gold, called a dollar, — a fraction or multiple of which figures in practically all exchanges as one of the two things the equivalence of which is established through each exchange.

Value, in the sense of " exchange equivalent," could not be conceived if there were but one commodity known to the community. Value could be ascribed to that commodity only if the term were used in the sense of " utility " or " social importance." Between two kinds of goods only one exchange rate or price is conceivable. If there were but ten commodities known and one of them were selected as a standard of

value, the market report could contain a schedule of no more than nine prices; and if a composite unit were chosen, the prices of the ten commodities would be interrelated in such a way that if those of only nine of the commodities were given, that of the tenth — supposing it to be one of those composing the multiple unit — would be a function of the nine prices capable of being computed. The very fact that among ten commodities there can be only nine independent prices is a demonstration that the tenth of the commodities — or a list of commodities containing the tenth one — must serve as a unit of prices and that a unit of absolute value is mathematically precluded, for this would imply the possibility of ten independent prices.

With the adoption of the equivalent definition the task of the theory of value is reduced to an analysis of the factors that regulate exchange rates, and through the contributions of numerous writers, particularly Ricardo, Jevons and Böhm-Bawerk, this problem has been so thoroly elaborated that, at least in my judgment, no phase of the subject remains obscure.[1]

The value conception championed by Professor J. M. Clark, namely exchange rate, is virtually identical with the equivalent conception and is perfectly defensible against the objections urged against it by Professor Anderson. Custom has sanctioned the use of the word "rate" in several senses, one of which is "ratio," another "measure." These two concepts are by no means identical. The rate of interest is a "ratio," and as such is an abstract quantity. The number specifying the interest rate remains the same whether the principal be a large or a small sum, or whether the sum be expressed in terms of dollars, pounds, francs or marks. On the other hand, the exchange rate of a commodity is a measure. The number specifying a price varies according as the commodity unit is a ton or a pound, a yard or an inch, and according as the value unit is a cent or a dollar, a penny or a pound. An exchange rate, like an exchange equivalent, is a concrete, not an abstract quantity; it is usually stated, in terms of dollars and cents.

[1] Cf. Bilgram & Levy, The Cause of Business Depressions, pp. 26–76.

Professor Anderson uses the term "value" in a different sense. He seeks in "social value" some absolute quality, some essence, residing in commodities independent of exchanges, something that antecedes and motivates exchanges.

The essence inherent in goods that gives rise to exchanges has been analyzed by Jevons, Böhm-Bawerk and others, and by them traced to the faculty of goods to gratify desires, to their utility. But since the utility of a commodity may be greater or less, according as it is being utilized in one way or another, those writers evolved the theory of marginal utility by analyzing the process through which, from among the whole gamut of possible utilities, the one is selected that becomes operative in determining exchange rates. But altho the utility of a good, coupled with its scarcity, motivates exchanges, and marginal utility is a factor in price determination, Professor Anderson holds his conception of social value to be distinct from marginal utility.

He explains that appreciation of utility is purely subjective, which precludes comparison where a plurality of persons is involved. To be sure, one person can compare his comforts with his discomforts; it is for him to determine what sacrifice to make in order to gain a certain desideratum. But how can marginal utility govern price in the case of an exchange between two or more persons? How can it attain social significance?

The answer is simple enough. Two kinds of goods figure in every exchange, and each party to an exchange compares the loss of that which he gives with the gain of that which he receives. Each participant agrees to an exchange if *in his estimation* the utility of that which he receives more than covers the loss of that which he gives. The personal equation as regards subjective estimation of utility or effort does not enter into the problem. Subjective comparison of utility and effort, of gain and loss, becomes materialized through each individual comparing two objects. And this is true not only where the exchange takes the form of barter, but also in the highly developed markets where purchase and sale take the place of barter. The gain represented by the receipt of a

dollar is then appreciated by the utility of the most desirable things the dollar will buy, and the loss represented by paying a dollar is measured by the effort required to earn one.

But this seems to lead to another difficulty. An appreciation of the utility of a dollar is here supposed to depend upon its purchasing power. And moreover, the measure of marginal utility can be found only by a process of pairing off, through exchanges, the buyers whose desire for the goods under consideration exceeds their price against the sellers whose reluctance to produce and sell is more than covered by it. This would predicate that the prices of things in general are known. And if so, the problem of prices would seem to require no further solution. The attempt to find prices through the law of marginal utility would indeed appear to be a clear case of reasoning in a circle.

Is this really so? We know that in the market prices frequently change, adapting themselves to changing conditions. If once adjusted, they tend to remain stable until one or another cause arises calling for further readjustment. But the ramifications of the forces that operate in the market are such, and the processes of the market are so replete with reactions, that prices adapt themselves very gradually to changing conditions. Now, the law of value cannot be more than a reflection of the processes of the market. It cannot do more than point out the conditions under which the current price of a given commodity tends to remain stationary, by showing that if those conditions do not obtain, certain forces come into play to readjust the price. It is therefore logically admissible to assume current prices as known, tho subject to such readjustments as are pointed out by the law. I fail to see that in the analysis of the causes that govern exchange rates, in the analysis so lucidly illustrated by the so-called supply and demand curves,[1] any premises are resorted to which are not logically assumable.

[1] The ordinates of these curves do not measure "numbers of dollars," or quantity of the value denominator, as Professor Anderson seems to think, but the varying estimations of the utility of the goods in question in terms of dollars or whatever the unit may be. And a fixed value of the dollar is not assumed. That both buyers and sellers accord varying appreciation to the means of payment as well as to the object of purchase and sale has been duly taken into account in The Cause of Business Depressions, pp. 48–56.

The value concept based on exchange equivalence in conjunction with the study of the interrelation of utility and effort, involving the subjective comparison of desire to consume with reluctance to produce, so completely supplies all that can be expected of a theory of value that there seems to be no need for introducing the concept of absolute value.

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